
SENATE BILL 5724

State of Washington 60th Legislature 2007 Regular Session

By Senators Prentice, Murray, Berkey, Weinstein, Kohl-Welles, Kauffman, Oemig, Kline, Regala, Eide, Hobbs, Poulsen, Pridemore, Jacobsen, Shin, Franklin, Rockefeller, Fraser and Rasmussen

Read first time 01/29/2007. Referred to Committee on Ways & Means.

1 AN ACT Relating to designating a survivor beneficiary in public
2 pension systems; amending RCW 2.10.030, 2.12.030, 2.12.048, 2.14.110,
3 28B.10.400, 28B.10.431, 41.20.085, 41.24.180, 41.26.030, 41.26.030,
4 41.26.090, 41.26.160, 41.26.161, 41.26.460, 41.26.470, 41.26.510,
5 41.26.520, 41.32.260, 41.32.520, 41.32.785, 41.32.790, 41.32.805,
6 41.32.810, 41.32.865, 41.32.895, 41.35.010, 41.35.115, 41.35.220,
7 41.35.440, 41.35.460, 41.35.470, 41.35.650, 41.35.710, 41.37.010,
8 41.37.170, 41.37.250, 41.37.260, 41.40.010, 41.40.0931, 41.40.185,
9 41.40.188, 41.40.190, 41.40.220, 41.40.235, 41.40.250, 41.40.270,
10 41.40.660, 41.40.670, 41.40.700, 41.40.710, 41.40.805, 41.44.030,
11 41.40.835, 41.44.170, 41.44.190, 41.44.210, 41.44.220, 41.50.700, and
12 41.54.034; reenacting and amending RCW 41.24.172, 41.32.010, and
13 41.40.170; creating a new section; providing effective dates; and
14 providing an expiration date.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

16 **Sec. 1.** RCW 2.10.030 and 1997 c 88 s 5 are each amended to read as
17 follows:

18 (1) "Retirement system" means the "Washington judicial retirement
19 system" provided (~~herein~~) in this chapter.

1 (2) "Judge" means a person elected or appointed to serve as judge
2 of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW.
3 "Judge" does not include a person serving as a judge pro tempore except
4 for a judge pro tempore appointed under RCW 2.04.240(2) or 2.06.150(2).

5 (3) "Retirement board" means the "Washington judicial retirement
6 board" established ((~~herein~~)) in this chapter.

7 (4) "Surviving spouse" means the surviving widow ((~~or~~)) widower
8 or domestic partner of a judge. "Surviving spouse" does not include
9 the divorced spouse of a judge.

10 (5) "Retirement fund" means the "Washington judicial retirement
11 fund" established ((~~herein~~)) in this chapter.

12 (6) "Beneficiary" means any person in receipt of a retirement
13 allowance, disability allowance or any other benefit described
14 ((~~herein~~)) in this chapter.

15 (7) "Monthly salary" means the monthly salary of the position held
16 by the judge.

17 (8) "Service" means all periods of time served as a judge, as
18 ((~~herein~~)) defined in this chapter. Any calendar month at the
19 beginning or end of a term in which ten or more days are served shall
20 be counted as a full month of service: PROVIDED, That no more than one
21 month's service may be granted for any one calendar month. Only months
22 of service will be counted in the computation of any retirement
23 allowance or other benefit provided for in this chapter. Years of
24 service shall be determined by dividing the total months of service by
25 twelve. Any fraction of a year of service as so determined shall be
26 taken into account in the computation of such retirement allowance or
27 benefit.

28 (9) "Final average salary" means (a) for a judge in service in the
29 same court for a minimum of twelve consecutive months preceding the
30 date of retirement, the salary attached to the position held by the
31 judge immediately prior to retirement; (b) for any other judge, the
32 average monthly salary paid over the highest twenty-four month period
33 in the last ten years of service.

34 (10) "Retirement allowance" for the purpose of applying cost of
35 living increases or decreases includes retirement allowances,
36 disability allowances and survivorship benefit.

37 (11) "Index" means for any calendar year, that year's annual

1 average consumer price index for urban wage earners and clerical
2 workers, all items (1957-1959 equal one hundred) -- compiled by the
3 bureau of labor statistics, United States department of labor.

4 (12) "Accumulated contributions" means the total amount deducted
5 from the judge's monthly salary pursuant to RCW 2.10.090, together with
6 the regular interest thereon from July 1, 1988, as determined by the
7 director of the department of retirement systems.

8 (13) "Domestic partner" has the definition in RCW 41.40.010.

9 **Sec. 2.** RCW 2.12.030 and 1973 1st ex.s. c 154 s 1 are each amended
10 to read as follows:

11 Supreme court, court of appeals, or superior court judges of the
12 state who retire from office under the provisions of this chapter other
13 than as provided in RCW 2.12.012 shall be entitled to receive monthly
14 during the period of their natural life, out of the fund hereinafter
15 created, an amount equal to one-half of the monthly salary they were
16 receiving as a judge at the time of their retirement, or at the end of
17 the term immediately prior to their retirement if their retirement is
18 made after expiration of their term. The surviving spouse or domestic
19 partner as defined in RCW 41.40.010 of any judge who shall have
20 heretofore retired or may hereafter retire, or of a judge who was
21 heretofore or may hereafter be eligible for retirement at the time of
22 death, if the surviving spouse had been married to the judge for three
23 years or the domestic partner had been in the domestic partnership for
24 three years, if the surviving spouse had been married to the judge
25 prior to retirement or the domestic partner had been in the domestic
26 partnership prior to retirement, shall be paid an amount equal to one-
27 half of the retirement pay of the judge, as long as such surviving
28 spouse or domestic partner remains unmarried. The retirement pay shall
29 be paid monthly by the state treasurer on or before the tenth day of
30 each month. The provisions of this section shall apply to the
31 surviving spouse or domestic partner of any judge who dies while
32 holding such office or dies after having retired under the provisions
33 of this chapter and who at the time of death had served ten or more
34 years in the aggregate as a judge of the supreme court, court of
35 appeals, or superior court or any of such courts, or had served an
36 aggregate of twelve years in the supreme court, court of appeals, or
37 superior court if such pension rights are based upon RCW 2.12.012.

1 **Sec. 3.** RCW 2.12.048 and 1991 c 159 s 2 are each amended to read
2 as follows:

3 If a judge who was a member of this system left the system before
4 July 1, 1988, and neither the judge nor the judge's surviving spouse or
5 domestic partner as defined in RCW 41.40.010: (1) Was eligible at that
6 time to receive a benefit under this chapter; or (2) has received an
7 amount under a sundry claims appropriation from the state legislature
8 intended as a refund of the judge's contributions paid under RCW
9 2.12.060; then the judge or the judge's surviving spouse or domestic
10 partner may apply to the department for and receive a refund of such
11 contributions.

12 **Sec. 4.** RCW 2.14.110 and 2005 c 282 s 1 are each amended to read
13 as follows:

14 If a member dies, the amount of the accumulated contributions
15 standing to the member's credit at the time of the member's death shall
16 be paid to the member's estate, or such person or persons, trust, or
17 organization as the member has nominated by written designation duly
18 executed and filed with the administrative office of the courts. If
19 there is no such designated person or persons still living at the time
20 of the member's death, the member's accumulated contributions shall be
21 paid to the member's surviving spouse or domestic partner as defined in
22 RCW 41.40.010 as if in fact the spouse or domestic partner had been
23 nominated by written designation or, if there is no such surviving
24 spouse or domestic partner, then to the member's legal representatives.

25 **Sec. 5.** RCW 28B.10.400 and 1979 ex.s. c 259 s 1 are each amended
26 to read as follows:

27 The boards of regents of the state universities, the boards of
28 trustees of the regional universities and of The Evergreen State
29 College, and the state board for community and technical colleges
30 (~~(education)~~) are authorized and empowered:

31 (1) To assist the faculties and such other employees as any such
32 board may designate in the purchase of old age annuities or retirement
33 income plans under such rules (~~(and regulations)~~) as any such board may
34 prescribe. County agricultural agents, home demonstration agents, 4-H
35 club agents, and assistant county agricultural agents paid jointly by

1 the Washington State University and the several counties shall be
2 deemed to be full time employees of the Washington State University for
3 the purposes ((hereof)) of this section;

4 (2) To provide, under such rules ((and regulations)) as any such
5 board may prescribe for the faculty members or other employees under
6 its supervision, for the retirement of any such faculty member or other
7 employee on account of age or condition of health, retirement on
8 account of age to be not earlier than the sixty-fifth birthday:
9 PROVIDED, That such faculty member or such other employee may elect to
10 retire at the earliest age specified for retirement by federal social
11 security law: PROVIDED FURTHER, That any supplemental payment
12 authorized by subsection (3) of this section and paid as a result of
13 retirement earlier than age sixty-five shall be at an actuarially
14 reduced rate;

15 (3) To pay to any such retired person or to his or her designated
16 beneficiary(s), each year after his or her retirement, a supplemental
17 amount which, when added to the amount of such annuity or retirement
18 income plan, or retirement income benefit pursuant to RCW 28B.10.415,
19 received by ((him or his)) the person or the person's designated
20 beneficiary(s) in such year, will not exceed fifty percent of the
21 average annual salary paid to such retired person for ((his)) the
22 highest two consecutive years of full time service under an annuity or
23 retirement income plan established pursuant to subsection (1) of this
24 section at an institution of higher education: PROVIDED, HOWEVER, That
25 if such retired person prior to ((his)) retirement elected a
26 supplemental payment survivor's option, any such supplemental payments
27 to such retired person or his or her designated beneficiary(s) shall be
28 at actuarially reduced rates: PROVIDED FURTHER, That if a faculty
29 member or other employee of an institution of higher education who is
30 a participant in a retirement plan authorized by this section dies, or
31 has died before retirement but after becoming eligible for retirement
32 on account of age, the designated beneficiary(s) shall be entitled to
33 receive the supplemental payment authorized by this subsection (3) of
34 this section to which such designated beneficiary(s) would have been
35 entitled had said deceased faculty member or other employee retired on
36 the date of death after electing a supplemental payment survivors
37 option: PROVIDED FURTHER, That for the purpose of this subsection, the
38 designated beneficiary(s) shall be (a) the surviving spouse or domestic

1 partner as defined in RCW 41.40.010 of the retiree; or, (b) with the
2 written consent of such spouse or domestic partner, if any, such other
3 person or persons as shall have an insurable interest in the retiree's
4 life and shall have been nominated by written designation duly executed
5 and filed with the retiree's institution of higher education.

6 **Sec. 6.** RCW 28B.10.431 and 1983 1st ex.s. c 56 s 2 are each
7 amended to read as follows:

8 Notwithstanding any provision of law to the contrary, effective
9 July 1, 1983, the monthly benefit of each person who either is
10 receiving a benefit pursuant to a program established under RCW
11 28B.10.400 for their service as of July 1, 1978, or commenced receiving
12 a monthly benefit as a surviving spouse, domestic partner as defined in
13 RCW 41.40.010, or written designated beneficiary with an insurable
14 interest in the retiree as of a date no later than December 31, 1982,
15 shall be permanently increased by a postretirement adjustment of \$.74
16 per month for each year of creditable service the faculty member or
17 employee established with the annuity or retirement income plan. Any
18 fraction of a year of service shall be counted in the computation of
19 the postretirement adjustment.

20 **Sec. 7.** RCW 41.20.085 and 1973 1st ex.s. c 181 s 6 are each
21 amended to read as follows:

22 Whenever any member of the police department of any such city shall
23 die, or shall have heretofore died, or whenever any such member who has
24 been heretofore retired or who is hereafter retired for length of
25 service or a disability, shall have died, or shall die, leaving a
26 surviving spouse, domestic partner, or child or children under the age
27 of eighteen years, upon satisfactory proof of such facts made to it,
28 the board shall order and direct that a pension equal to one-third of
29 the amount of salary at any time hereafter attached to the position
30 held by such member in the police department at the time of (~~his~~) the
31 member's death or retirement, not to exceed one-third of the salary of
32 captain, shall be paid to the surviving spouse or domestic partner
33 during the surviving spouse's or domestic partner's life, and in
34 addition, to the child or children, until they are eighteen years of
35 age, as follows: For one child, one-eighth of the salary on which such
36 pension is based; for two children, a total of one-seventh of said

1 salary; and for three or more children, a total of one-sixth of said
2 salary: PROVIDED, If such spouse, domestic partner, or child or
3 children marry, the person so marrying shall receive no further pension
4 from the fund. In case there is no surviving spouse or domestic
5 partner, or if the surviving spouse shall die, the child or children
6 shall be entitled to the spouse's or domestic partner's share in
7 addition to the share specified herein until they reach eighteen years
8 of age. No spouse or domestic partner shall be entitled to any
9 payments on the death of a retired officer unless such surviving spouse
10 or domestic partner has been married to or in a domestic partnership
11 with such officer for a period of at least five years prior to the date
12 of his or her retirement.

13 As of April 25, 1973, a surviving spouse or domestic partner not
14 otherwise covered by the provisions of section 2, chapter 78, Laws of
15 1959, shall be entitled to a pension of three hundred dollars per
16 month.

17 "Surviving spouse" as used in this section means surviving female
18 or male spouse.

19 "Domestic partner" as used in this section has the definition in
20 RCW 41.40.010.

21 **Sec. 8.** RCW 41.24.172 and 1999 c 148 s 16 and 1999 c 117 s 6 are
22 each reenacted and amended to read as follows:

23 Before beginning to receive the retirement pension provided for in
24 RCW 41.24.170, the participant shall elect, in a writing filed with the
25 state board, to have the retirement pension paid under either option 1
26 or 2, with option 2 calculated so as to be actuarially equivalent to
27 option 1.

28 (1) Option 1. A participant electing this option shall receive a
29 monthly pension payable throughout the participant's life. However, if
30 the participant dies before the total retirement pension paid to the
31 participant equals the amount paid on behalf of the participant into
32 the principal fund, then the balance shall be paid to the participant's
33 surviving spouse, domestic partner as defined in RCW 41.40.010, or if
34 there be no surviving spouse or domestic partner, then to the
35 participant's legal representatives.

36 (2) Option 2. A participant electing this option shall receive a
37 reduced monthly pension, which upon the participant's death shall be

1 continued throughout the life of and paid to the participant's
2 surviving spouse or domestic partner named in the written election
3 filed with the state board, however, in the event that the surviving
4 spouse or domestic partner dies before the participant, the
5 participant's monthly retirement allowance shall increase, effective
6 the first day of the following month, to the monthly amount that would
7 have been received had the participant elected option 1.

8 **Sec. 9.** RCW 41.24.180 and 1999 c 148 s 17 are each amended to read
9 as follows:

10 The board of trustees of any municipal corporation shall direct
11 payment from the principal fund in the following cases:

12 (1) To any participant, upon his or her request, upon attaining the
13 age of sixty-five years, who, for any reason, is not qualified to
14 receive the monthly retirement pension provided under this chapter and
15 who was enrolled in the retirement provisions and on whose behalf
16 annual fees for retirement pension were paid, a lump sum amount equal
17 to the amount paid into the fund by the participant.

18 (2) If any participant who has not completed at least ten years of
19 service dies without having requested a lump sum payment under
20 subsection (1) or (3) of this section, there shall be paid to the
21 participant's surviving spouse or domestic partner as defined in RCW
22 41.40.010, or if there be no surviving spouse or domestic partner, then
23 to such participant's legal representatives, a lump sum amount equal to
24 the amount paid into the fund by the participant. If any participant
25 who has completed at least ten years of service dies other than as the
26 result of injuries received or sickness contracted in consequence or as
27 the result of the performance of his or her duties, without having
28 requested a lump sum payment under subsection (1) or (3) of this
29 section and before beginning to receive the monthly pension provided
30 for in this chapter, the participant's surviving spouse or domestic
31 partner shall elect to receive either:

32 (a) A monthly pension computed as provided for in RCW 41.24.170
33 actuarially adjusted to reflect option 2 of RCW 41.24.172 and further
34 actuarially reduced to reflect the difference in the number of years
35 between the participant's age at death and age sixty-five; or

36 (b) A lump sum amount equal to the amount paid into the principal

1 fund by the participant and the municipality or municipalities in whose
2 department he or she has served.

3 If there be no such surviving spouse or domestic partner, then
4 there shall be paid to the participant's legal representatives a lump
5 sum amount equal to the amount paid into the fund by the participant.

6 (3) If any participant retires from service before attaining the
7 age of sixty-five years, the participant may make application for the
8 return in a lump sum of the amount paid into the fund by himself or
9 herself.

10 **Sec. 10.** RCW 41.26.030 and 2005 c 459 s 1 are each amended to read
11 as follows:

12 As used in this chapter, unless a different meaning is plainly
13 required by the context:

14 (1) "Retirement system" means the "Washington law enforcement
15 officers' and fire fighters' retirement system" provided herein.

16 (2)(a) "Employer" for plan 1 members, means the legislative
17 authority of any city, town, county, or district or the elected
18 officials of any municipal corporation that employs any law enforcement
19 officer and/or fire fighter, any authorized association of such
20 municipalities, and, except for the purposes of RCW 41.26.150, any
21 labor guild, association, or organization, which represents the fire
22 fighters or law enforcement officers of at least seven cities of over
23 20,000 population and the membership of each local lodge or division of
24 which is composed of at least sixty percent law enforcement officers or
25 fire fighters as defined in this chapter.

26 (b) "Employer" for plan 2 members, means the following entities to
27 the extent that the entity employs any law enforcement officer and/or
28 fire fighter:

29 (i) The legislative authority of any city, town, county, or
30 district;

31 (ii) The elected officials of any municipal corporation;

32 (iii) The governing body of any other general authority law
33 enforcement agency; or

34 (iv) A four-year institution of higher education having a fully
35 operational fire department as of January 1, 1996.

36 (3) "Law enforcement officer" beginning January 1, 1994, means any

1 person who is commissioned and employed by an employer on a full time,
2 fully compensated basis to enforce the criminal laws of the state of
3 Washington generally, with the following qualifications:

4 (a) No person who is serving in a position that is basically
5 clerical or secretarial in nature, and who is not commissioned shall be
6 considered a law enforcement officer;

7 (b) Only those deputy sheriffs, including those serving under a
8 different title pursuant to county charter, who have successfully
9 completed a civil service examination for deputy sheriff or the
10 equivalent position, where a different title is used, and those persons
11 serving in unclassified positions authorized by RCW 41.14.070 except a
12 private secretary will be considered law enforcement officers;

13 (c) Only such full time commissioned law enforcement personnel as
14 have been appointed to offices, positions, or ranks in the police
15 department which have been specifically created or otherwise expressly
16 provided for and designated by city charter provision or by ordinance
17 enacted by the legislative body of the city shall be considered city
18 police officers;

19 (d) The term "law enforcement officer" also includes the executive
20 secretary of a labor guild, association or organization (which is an
21 employer under RCW 41.26.030(2)) if that individual has five years
22 previous membership in the retirement system established in chapter
23 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
24 plan 2 members; and

25 (e) The term "law enforcement officer" also includes a person
26 employed on or after January 1, 1993, as a public safety officer or
27 director of public safety, so long as the job duties substantially
28 involve only either police or fire duties, or both, and no other duties
29 in a city or town with a population of less than ten thousand. The
30 provisions of this subsection (3)(e) shall not apply to any public
31 safety officer or director of public safety who is receiving a
32 retirement allowance under this chapter as of May 12, 1993.

33 (4) "Fire fighter" means:

34 (a) Any person who is serving on a full time, fully compensated
35 basis as a member of a fire department of an employer and who is
36 serving in a position which requires passing a civil service
37 examination for fire fighter, and who is actively employed as such;

1 (b) Anyone who is actively employed as a full time fire fighter
2 where the fire department does not have a civil service examination;

3 (c) Supervisory fire fighter personnel;

4 (d) Any full time executive secretary of an association of fire
5 protection districts authorized under RCW 52.12.031. The provisions of
6 this subsection (4)(d) shall not apply to plan 2 members;

7 (e) The executive secretary of a labor guild, association or
8 organization (which is an employer under RCW 41.26.030(2) as now or
9 hereafter amended), if such individual has five years previous
10 membership in a retirement system established in chapter 41.16 or 41.18
11 RCW. The provisions of this subsection (4)(e) shall not apply to plan
12 2 members;

13 (f) Any person who is serving on a full time, fully compensated
14 basis for an employer, as a fire dispatcher, in a department in which,
15 on March 1, 1970, a dispatcher was required to have passed a civil
16 service examination for fire fighter;

17 (g) Any person who on March 1, 1970, was employed on a full time,
18 fully compensated basis by an employer, and who on May 21, 1971, was
19 making retirement contributions under the provisions of chapter 41.16
20 or 41.18 RCW; and

21 (h) Any person who is employed on a full-time, fully compensated
22 basis by an employer as an emergency medical technician.

23 (5) "Department" means the department of retirement systems created
24 in chapter 41.50 RCW.

25 (6) "Surviving spouse" means the surviving widow or widower of a
26 member. "Surviving spouse" shall not include the divorced spouse of a
27 member except as provided in RCW 41.26.162.

28 (7)(a) "Child" or "children" means an unmarried person who is under
29 the age of eighteen or mentally or physically handicapped as determined
30 by the department, except a handicapped person in the full time care of
31 a state institution, who is:

32 (i) A natural born child;

33 (ii) A stepchild where that relationship was in existence prior to
34 the date benefits are payable under this chapter;

35 (iii) A posthumous child;

36 (iv) A child legally adopted or made a legal ward of a member prior
37 to the date benefits are payable under this chapter; or

1 (v) An illegitimate child legitimized prior to the date any
2 benefits are payable under this chapter.

3 (b) A person shall also be deemed to be a child up to and including
4 the age of twenty years and eleven months while attending any high
5 school, college, or vocational or other educational institution
6 accredited, licensed, or approved by the state, in which it is located,
7 including the summer vacation months and all other normal and regular
8 vacation periods at the particular educational institution after which
9 the child returns to school.

10 (8) "Member" means any fire fighter, law enforcement officer, or
11 other person as would apply under subsections (3) or (4) of this
12 section whose membership is transferred to the Washington law
13 enforcement officers' and fire fighters' retirement system on or after
14 March 1, 1970, and every law enforcement officer and fire fighter who
15 is employed in that capacity on or after such date.

16 (9) "Retirement fund" means the "Washington law enforcement
17 officers' and fire fighters' retirement system fund" as provided for
18 herein.

19 (10) "Employee" means any law enforcement officer or fire fighter
20 as defined in subsections (3) and (4) of this section.

21 (11)(a) "Beneficiary" for plan 1 members, means any person in
22 receipt of a retirement allowance, disability allowance, death benefit,
23 or any other benefit described herein.

24 (b) "Beneficiary" for plan 2 members, means any person in receipt
25 of a retirement allowance or other benefit provided by this chapter
26 resulting from service rendered to an employer by another person.

27 (12)(a) "Final average salary" for plan 1 members, means (i) for a
28 member holding the same position or rank for a minimum of twelve months
29 preceding the date of retirement, the basic salary attached to such
30 same position or rank at time of retirement; (ii) for any other member,
31 including a civil service member who has not served a minimum of twelve
32 months in the same position or rank preceding the date of retirement,
33 the average of the greatest basic salaries payable to such member
34 during any consecutive twenty-four month period within such member's
35 last ten years of service for which service credit is allowed, computed
36 by dividing the total basic salaries payable to such member during the
37 selected twenty-four month period by twenty-four; (iii) in the case of
38 disability of any member, the basic salary payable to such member at

1 the time of disability retirement; (iv) in the case of a member who
2 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
3 such member at the time of vesting.

4 (b) "Final average salary" for plan 2 members, means the monthly
5 average of the member's basic salary for the highest consecutive sixty
6 service credit months of service prior to such member's retirement,
7 termination, or death. Periods constituting authorized unpaid leaves
8 of absence may not be used in the calculation of final average salary.

9 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
10 rate of salary or wages, including longevity pay but not including
11 overtime earnings or special salary or wages, upon which pension or
12 retirement benefits will be computed and upon which employer
13 contributions and salary deductions will be based.

14 (b) "Basic salary" for plan 2 members, means salaries or wages
15 earned by a member during a payroll period for personal services,
16 including overtime payments, and shall include wages and salaries
17 deferred under provisions established pursuant to sections 403(b),
18 414(h), and 457 of the United States Internal Revenue Code, but shall
19 exclude lump sum payments for deferred annual sick leave, unused
20 accumulated vacation, unused accumulated annual leave, or any form of
21 severance pay. In any year in which a member serves in the legislature
22 the member shall have the option of having such member's basic salary
23 be the greater of:

24 (i) The basic salary the member would have received had such member
25 not served in the legislature; or

26 (ii) Such member's actual basic salary received for nonlegislative
27 public employment and legislative service combined. Any additional
28 contributions to the retirement system required because basic salary
29 under (b)(i) of this subsection is greater than basic salary under
30 (b)(ii) of this subsection shall be paid by the member for both member
31 and employer contributions.

32 (14)(a) "Service" for plan 1 members, means all periods of
33 employment for an employer as a fire fighter or law enforcement
34 officer, for which compensation is paid, together with periods of
35 suspension not exceeding thirty days in duration. For the purposes of
36 this chapter service shall also include service in the armed forces of
37 the United States as provided in RCW 41.26.190. Credit shall be
38 allowed for all service credit months of service rendered by a member

1 from and after the member's initial commencement of employment as a
2 fire fighter or law enforcement officer, during which the member worked
3 for seventy or more hours, or was on disability leave or disability
4 retirement. Only service credit months of service shall be counted in
5 the computation of any retirement allowance or other benefit provided
6 for in this chapter.

7 (i) For members retiring after May 21, 1971 who were employed under
8 the coverage of a prior pension act before March 1, 1970, "service"
9 shall also include (A) such military service not exceeding five years
10 as was creditable to the member as of March 1, 1970, under the member's
11 particular prior pension act, and (B) such other periods of service as
12 were then creditable to a particular member under the provisions of RCW
13 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
14 be allowed for any service rendered prior to March 1, 1970, where the
15 member at the time of rendition of such service was employed in a
16 position covered by a prior pension act, unless such service, at the
17 time credit is claimed therefor, is also creditable under the
18 provisions of such prior act.

19 (ii) A member who is employed by two employers at the same time
20 shall only be credited with service to one such employer for any month
21 during which the member rendered such dual service.

22 (b) "Service" for plan 2 members, means periods of employment by a
23 member for one or more employers for which basic salary is earned for
24 ninety or more hours per calendar month which shall constitute a
25 service credit month. Periods of employment by a member for one or
26 more employers for which basic salary is earned for at least seventy
27 hours but less than ninety hours per calendar month shall constitute
28 one-half service credit month. Periods of employment by a member for
29 one or more employers for which basic salary is earned for less than
30 seventy hours shall constitute a one-quarter service credit month.

31 Members of the retirement system who are elected or appointed to a
32 state elective position may elect to continue to be members of this
33 retirement system.

34 Service credit years of service shall be determined by dividing the
35 total number of service credit months of service by twelve. Any
36 fraction of a service credit year of service as so determined shall be
37 taken into account in the computation of such retirement allowance or
38 benefits.

1 If a member receives basic salary from two or more employers during
2 any calendar month, the individual shall receive one service credit
3 month's service credit during any calendar month in which multiple
4 service for ninety or more hours is rendered; or one-half service
5 credit month's service credit during any calendar month in which
6 multiple service for at least seventy hours but less than ninety hours
7 is rendered; or one-quarter service credit month during any calendar
8 month in which multiple service for less than seventy hours is
9 rendered.

10 (15) "Accumulated contributions" means the employee's contributions
11 made by a member, including any amount paid under RCW 41.50.165(2),
12 plus accrued interest credited thereon.

13 (16) "Actuarial reserve" means a method of financing a pension or
14 retirement plan wherein reserves are accumulated as the liabilities for
15 benefit payments are incurred in order that sufficient funds will be
16 available on the date of retirement of each member to pay the member's
17 future benefits during the period of retirement.

18 (17) "Actuarial valuation" means a mathematical determination of
19 the financial condition of a retirement plan. It includes the
20 computation of the present monetary value of benefits payable to
21 present members, and the present monetary value of future employer and
22 employee contributions, giving effect to mortality among active and
23 retired members and also to the rates of disability, retirement,
24 withdrawal from service, salary and interest earned on investments.

25 (18) "Disability board" for plan 1 members means either the county
26 disability board or the city disability board established in RCW
27 41.26.110.

28 (19) "Disability leave" means the period of six months or any
29 portion thereof during which a member is on leave at an allowance equal
30 to the member's full salary prior to the commencement of disability
31 retirement. The definition contained in this subsection shall apply
32 only to plan 1 members.

33 (20) "Disability retirement" for plan 1 members, means the period
34 following termination of a member's disability leave, during which the
35 member is in receipt of a disability retirement allowance.

36 (21) "Position" means the employment held at any particular time,
37 which may or may not be the same as civil service rank.

1 (22) "Medical services" for plan 1 members, shall include the
2 following as minimum services to be provided. Reasonable charges for
3 these services shall be paid in accordance with RCW 41.26.150.

4 (a) Hospital expenses: These are the charges made by a hospital,
5 in its own behalf, for

6 (i) Board and room not to exceed semiprivate room rate unless
7 private room is required by the attending physician due to the
8 condition of the patient.

9 (ii) Necessary hospital services, other than board and room,
10 furnished by the hospital.

11 (b) Other medical expenses: The following charges are considered
12 "other medical expenses", provided that they have not been considered
13 as "hospital expenses".

14 (i) The fees of the following:

15 (A) A physician or surgeon licensed under the provisions of chapter
16 18.71 RCW;

17 (B) An osteopathic physician and surgeon licensed under the
18 provisions of chapter 18.57 RCW;

19 (C) A chiropractor licensed under the provisions of chapter 18.25
20 RCW.

21 (ii) The charges of a registered graduate nurse other than a nurse
22 who ordinarily resides in the member's home, or is a member of the
23 family of either the member or the member's spouse.

24 (iii) The charges for the following medical services and supplies:

25 (A) Drugs and medicines upon a physician's prescription;

26 (B) Diagnostic x-ray and laboratory examinations;

27 (C) X-ray, radium, and radioactive isotopes therapy;

28 (D) Anesthesia and oxygen;

29 (E) Rental of iron lung and other durable medical and surgical
30 equipment;

31 (F) Artificial limbs and eyes, and casts, splints, and trusses;

32 (G) Professional ambulance service when used to transport the
33 member to or from a hospital when injured by an accident or stricken by
34 a disease;

35 (H) Dental charges incurred by a member who sustains an accidental
36 injury to his or her teeth and who commences treatment by a legally
37 licensed dentist within ninety days after the accident;

38 (I) Nursing home confinement or hospital extended care facility;

1 (J) Physical therapy by a registered physical therapist;
2 (K) Blood transfusions, including the cost of blood and blood
3 plasma not replaced by voluntary donors;
4 (L) An optometrist licensed under the provisions of chapter 18.53
5 RCW.
6 (23) "Regular interest" means such rate as the director may
7 determine.
8 (24) "Retiree" for persons who establish membership in the
9 retirement system on or after October 1, 1977, means any member in
10 receipt of a retirement allowance or other benefit provided by this
11 chapter resulting from service rendered to an employer by such member.
12 (25) "Director" means the director of the department.
13 (26) "State actuary" or "actuary" means the person appointed
14 pursuant to RCW 44.44.010(2).
15 (27) "State elective position" means any position held by any
16 person elected or appointed to statewide office or elected or appointed
17 as a member of the legislature.
18 (28) "Plan 1" means the law enforcement officers' and fire
19 fighters' retirement system, plan 1 providing the benefits and funding
20 provisions covering persons who first became members of the system
21 prior to October 1, 1977.
22 (29) "Plan 2" means the law enforcement officers' and fire
23 fighters' retirement system, plan 2 providing the benefits and funding
24 provisions covering persons who first became members of the system on
25 and after October 1, 1977.
26 (30) "Service credit year" means an accumulation of months of
27 service credit which is equal to one when divided by twelve.
28 (31) "Service credit month" means a full service credit month or an
29 accumulation of partial service credit months that are equal to one.
30 (32) "General authority law enforcement agency" means any agency,
31 department, or division of a municipal corporation, political
32 subdivision, or other unit of local government of this state, and any
33 agency, department, or division of state government, having as its
34 primary function the detection and apprehension of persons committing
35 infractions or violating the traffic or criminal laws in general, but
36 not including the Washington state patrol. Such an agency, department,
37 or division is distinguished from a limited authority law enforcement
38 agency having as one of its functions the apprehension or detection of

1 persons committing infractions or violating the traffic or criminal
2 laws relating to limited subject areas, including but not limited to,
3 the state departments of natural resources and social and health
4 services, the state gambling commission, the state lottery commission,
5 the state parks and recreation commission, the state utilities and
6 transportation commission, the state liquor control board, and the
7 state department of corrections.

8 (33) "Domestic partner" has the definition in RCW 41.40.010.

9 **Sec. 11.** RCW 41.26.030 and 2003 c 388 s 2 are each amended to read
10 as follows:

11 As used in this chapter, unless a different meaning is plainly
12 required by the context:

13 (1) "Retirement system" means the "Washington law enforcement
14 officers' and fire fighters' retirement system" provided herein.

15 (2)(a) "Employer" for plan 1 members, means the legislative
16 authority of any city, town, county, or district or the elected
17 officials of any municipal corporation that employs any law enforcement
18 officer and/or fire fighter, any authorized association of such
19 municipalities, and, except for the purposes of RCW 41.26.150, any
20 labor guild, association, or organization, which represents the fire
21 fighters or law enforcement officers of at least seven cities of over
22 20,000 population and the membership of each local lodge or division of
23 which is composed of at least sixty percent law enforcement officers or
24 fire fighters as defined in this chapter.

25 (b) "Employer" for plan 2 members, means the following entities to
26 the extent that the entity employs any law enforcement officer and/or
27 fire fighter:

28 (i) The legislative authority of any city, town, county, or
29 district;

30 (ii) The elected officials of any municipal corporation;

31 (iii) The governing body of any other general authority law
32 enforcement agency; or

33 (iv) A four-year institution of higher education having a fully
34 operational fire department as of January 1, 1996.

35 (3) "Law enforcement officer" beginning January 1, 1994, means any
36 person who is commissioned and employed by an employer on a full time,

1 fully compensated basis to enforce the criminal laws of the state of
2 Washington generally, with the following qualifications:

3 (a) No person who is serving in a position that is basically
4 clerical or secretarial in nature, and who is not commissioned shall be
5 considered a law enforcement officer;

6 (b) Only those deputy sheriffs, including those serving under a
7 different title pursuant to county charter, who have successfully
8 completed a civil service examination for deputy sheriff or the
9 equivalent position, where a different title is used, and those persons
10 serving in unclassified positions authorized by RCW 41.14.070 except a
11 private secretary will be considered law enforcement officers;

12 (c) Only such full time commissioned law enforcement personnel as
13 have been appointed to offices, positions, or ranks in the police
14 department which have been specifically created or otherwise expressly
15 provided for and designated by city charter provision or by ordinance
16 enacted by the legislative body of the city shall be considered city
17 police officers;

18 (d) The term "law enforcement officer" also includes the executive
19 secretary of a labor guild, association or organization (which is an
20 employer under RCW 41.26.030(2)) if that individual has five years
21 previous membership in the retirement system established in chapter
22 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to
23 plan 2 members; and

24 (e) The term "law enforcement officer" also includes a person
25 employed on or after January 1, 1993, as a public safety officer or
26 director of public safety, so long as the job duties substantially
27 involve only either police or fire duties, or both, and no other duties
28 in a city or town with a population of less than ten thousand. The
29 provisions of this subsection (3)(e) shall not apply to any public
30 safety officer or director of public safety who is receiving a
31 retirement allowance under this chapter as of May 12, 1993.

32 (4) "Fire fighter" means:

33 (a) Any person who is serving on a full time, fully compensated
34 basis as a member of a fire department of an employer and who is
35 serving in a position which requires passing a civil service
36 examination for fire fighter, and who is actively employed as such;

37 (b) Anyone who is actively employed as a full time fire fighter
38 where the fire department does not have a civil service examination;

1 (c) Supervisory fire fighter personnel;

2 (d) Any full time executive secretary of an association of fire
3 protection districts authorized under RCW 52.12.031. The provisions of
4 this subsection (4)(d) shall not apply to plan 2 members;

5 (e) The executive secretary of a labor guild, association or
6 organization (which is an employer under RCW 41.26.030(2) as now or
7 hereafter amended), if such individual has five years previous
8 membership in a retirement system established in chapter 41.16 or 41.18
9 RCW. The provisions of this subsection (4)(e) shall not apply to plan
10 2 members;

11 (f) Any person who is serving on a full time, fully compensated
12 basis for an employer, as a fire dispatcher, in a department in which,
13 on March 1, 1970, a dispatcher was required to have passed a civil
14 service examination for fire fighter; and

15 (g) Any person who on March 1, 1970, was employed on a full time,
16 fully compensated basis by an employer, and who on May 21, 1971, was
17 making retirement contributions under the provisions of chapter 41.16
18 or 41.18 RCW.

19 (5) "Department" means the department of retirement systems created
20 in chapter 41.50 RCW.

21 (6) "Surviving spouse" means the surviving widow or widower of a
22 member. "Surviving spouse" shall not include the divorced spouse of a
23 member except as provided in RCW 41.26.162.

24 (7)(a) "Child" or "children" means an unmarried person who is under
25 the age of eighteen or mentally or physically handicapped as determined
26 by the department, except a handicapped person in the full time care of
27 a state institution, who is:

28 (i) A natural born child;

29 (ii) A stepchild where that relationship was in existence prior to
30 the date benefits are payable under this chapter;

31 (iii) A posthumous child;

32 (iv) A child legally adopted or made a legal ward of a member prior
33 to the date benefits are payable under this chapter; or

34 (v) An illegitimate child legitimized prior to the date any
35 benefits are payable under this chapter.

36 (b) A person shall also be deemed to be a child up to and including
37 the age of twenty years and eleven months while attending any high
38 school, college, or vocational or other educational institution

1 accredited, licensed, or approved by the state, in which it is located,
2 including the summer vacation months and all other normal and regular
3 vacation periods at the particular educational institution after which
4 the child returns to school.

5 (8) "Member" means any fire fighter, law enforcement officer, or
6 other person as would apply under subsections (3) or (4) of this
7 section whose membership is transferred to the Washington law
8 enforcement officers' and fire fighters' retirement system on or after
9 March 1, 1970, and every law enforcement officer and fire fighter who
10 is employed in that capacity on or after such date.

11 (9) "Retirement fund" means the "Washington law enforcement
12 officers' and fire fighters' retirement system fund" as provided for
13 herein.

14 (10) "Employee" means any law enforcement officer or fire fighter
15 as defined in subsections (3) and (4) of this section.

16 (11)(a) "Beneficiary" for plan 1 members, means any person in
17 receipt of a retirement allowance, disability allowance, death benefit,
18 or any other benefit described herein.

19 (b) "Beneficiary" for plan 2 members, means any person in receipt
20 of a retirement allowance or other benefit provided by this chapter
21 resulting from service rendered to an employer by another person.

22 (12)(a) "Final average salary" for plan 1 members, means (i) for a
23 member holding the same position or rank for a minimum of twelve months
24 preceding the date of retirement, the basic salary attached to such
25 same position or rank at time of retirement; (ii) for any other member,
26 including a civil service member who has not served a minimum of twelve
27 months in the same position or rank preceding the date of retirement,
28 the average of the greatest basic salaries payable to such member
29 during any consecutive twenty-four month period within such member's
30 last ten years of service for which service credit is allowed, computed
31 by dividing the total basic salaries payable to such member during the
32 selected twenty-four month period by twenty-four; (iii) in the case of
33 disability of any member, the basic salary payable to such member at
34 the time of disability retirement; (iv) in the case of a member who
35 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
36 such member at the time of vesting.

37 (b) "Final average salary" for plan 2 members, means the monthly
38 average of the member's basic salary for the highest consecutive sixty

1 service credit months of service prior to such member's retirement,
2 termination, or death. Periods constituting authorized unpaid leaves
3 of absence may not be used in the calculation of final average salary.

4 (13)(a) "Basic salary" for plan 1 members, means the basic monthly
5 rate of salary or wages, including longevity pay but not including
6 overtime earnings or special salary or wages, upon which pension or
7 retirement benefits will be computed and upon which employer
8 contributions and salary deductions will be based.

9 (b) "Basic salary" for plan 2 members, means salaries or wages
10 earned by a member during a payroll period for personal services,
11 including overtime payments, and shall include wages and salaries
12 deferred under provisions established pursuant to sections 403(b),
13 414(h), and 457 of the United States Internal Revenue Code, but shall
14 exclude lump sum payments for deferred annual sick leave, unused
15 accumulated vacation, unused accumulated annual leave, or any form of
16 severance pay. In any year in which a member serves in the legislature
17 the member shall have the option of having such member's basic salary
18 be the greater of:

19 (i) The basic salary the member would have received had such member
20 not served in the legislature; or

21 (ii) Such member's actual basic salary received for nonlegislative
22 public employment and legislative service combined. Any additional
23 contributions to the retirement system required because basic salary
24 under (b)(i) of this subsection is greater than basic salary under
25 (b)(ii) of this subsection shall be paid by the member for both member
26 and employer contributions.

27 (14)(a) "Service" for plan 1 members, means all periods of
28 employment for an employer as a fire fighter or law enforcement
29 officer, for which compensation is paid, together with periods of
30 suspension not exceeding thirty days in duration. For the purposes of
31 this chapter service shall also include service in the armed forces of
32 the United States as provided in RCW 41.26.190. Credit shall be
33 allowed for all service credit months of service rendered by a member
34 from and after the member's initial commencement of employment as a
35 fire fighter or law enforcement officer, during which the member worked
36 for seventy or more hours, or was on disability leave or disability
37 retirement. Only service credit months of service shall be counted in

1 the computation of any retirement allowance or other benefit provided
2 for in this chapter.

3 (i) For members retiring after May 21, 1971 who were employed under
4 the coverage of a prior pension act before March 1, 1970, "service"
5 shall also include (A) such military service not exceeding five years
6 as was creditable to the member as of March 1, 1970, under the member's
7 particular prior pension act, and (B) such other periods of service as
8 were then creditable to a particular member under the provisions of RCW
9 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
10 be allowed for any service rendered prior to March 1, 1970, where the
11 member at the time of rendition of such service was employed in a
12 position covered by a prior pension act, unless such service, at the
13 time credit is claimed therefor, is also creditable under the
14 provisions of such prior act.

15 (ii) A member who is employed by two employers at the same time
16 shall only be credited with service to one such employer for any month
17 during which the member rendered such dual service.

18 (b) "Service" for plan 2 members, means periods of employment by a
19 member for one or more employers for which basic salary is earned for
20 ninety or more hours per calendar month which shall constitute a
21 service credit month. Periods of employment by a member for one or
22 more employers for which basic salary is earned for at least seventy
23 hours but less than ninety hours per calendar month shall constitute
24 one-half service credit month. Periods of employment by a member for
25 one or more employers for which basic salary is earned for less than
26 seventy hours shall constitute a one-quarter service credit month.

27 Members of the retirement system who are elected or appointed to a
28 state elective position may elect to continue to be members of this
29 retirement system.

30 Service credit years of service shall be determined by dividing the
31 total number of service credit months of service by twelve. Any
32 fraction of a service credit year of service as so determined shall be
33 taken into account in the computation of such retirement allowance or
34 benefits.

35 If a member receives basic salary from two or more employers during
36 any calendar month, the individual shall receive one service credit
37 month's service credit during any calendar month in which multiple
38 service for ninety or more hours is rendered; or one-half service

1 credit month's service credit during any calendar month in which
2 multiple service for at least seventy hours but less than ninety hours
3 is rendered; or one-quarter service credit month during any calendar
4 month in which multiple service for less than seventy hours is
5 rendered.

6 (15) "Accumulated contributions" means the employee's contributions
7 made by a member, including any amount paid under RCW 41.50.165(2),
8 plus accrued interest credited thereon.

9 (16) "Actuarial reserve" means a method of financing a pension or
10 retirement plan wherein reserves are accumulated as the liabilities for
11 benefit payments are incurred in order that sufficient funds will be
12 available on the date of retirement of each member to pay the member's
13 future benefits during the period of retirement.

14 (17) "Actuarial valuation" means a mathematical determination of
15 the financial condition of a retirement plan. It includes the
16 computation of the present monetary value of benefits payable to
17 present members, and the present monetary value of future employer and
18 employee contributions, giving effect to mortality among active and
19 retired members and also to the rates of disability, retirement,
20 withdrawal from service, salary and interest earned on investments.

21 (18) "Disability board" for plan 1 members means either the county
22 disability board or the city disability board established in RCW
23 41.26.110.

24 (19) "Disability leave" means the period of six months or any
25 portion thereof during which a member is on leave at an allowance equal
26 to the member's full salary prior to the commencement of disability
27 retirement. The definition contained in this subsection shall apply
28 only to plan 1 members.

29 (20) "Disability retirement" for plan 1 members, means the period
30 following termination of a member's disability leave, during which the
31 member is in receipt of a disability retirement allowance.

32 (21) "Position" means the employment held at any particular time,
33 which may or may not be the same as civil service rank.

34 (22) "Medical services" for plan 1 members, shall include the
35 following as minimum services to be provided. Reasonable charges for
36 these services shall be paid in accordance with RCW 41.26.150.

37 (a) Hospital expenses: These are the charges made by a hospital,
38 in its own behalf, for

1 (i) Board and room not to exceed semiprivate room rate unless
2 private room is required by the attending physician due to the
3 condition of the patient.

4 (ii) Necessary hospital services, other than board and room,
5 furnished by the hospital.

6 (b) Other medical expenses: The following charges are considered
7 "other medical expenses", provided that they have not been considered
8 as "hospital expenses".

9 (i) The fees of the following:

10 (A) A physician or surgeon licensed under the provisions of chapter
11 18.71 RCW;

12 (B) An osteopathic physician and surgeon licensed under the
13 provisions of chapter 18.57 RCW;

14 (C) A chiropractor licensed under the provisions of chapter 18.25
15 RCW.

16 (ii) The charges of a registered graduate nurse other than a nurse
17 who ordinarily resides in the member's home, or is a member of the
18 family of either the member or the member's spouse.

19 (iii) The charges for the following medical services and supplies:

20 (A) Drugs and medicines upon a physician's prescription;

21 (B) Diagnostic x-ray and laboratory examinations;

22 (C) X-ray, radium, and radioactive isotopes therapy;

23 (D) Anesthesia and oxygen;

24 (E) Rental of iron lung and other durable medical and surgical
25 equipment;

26 (F) Artificial limbs and eyes, and casts, splints, and trusses;

27 (G) Professional ambulance service when used to transport the
28 member to or from a hospital when injured by an accident or stricken by
29 a disease;

30 (H) Dental charges incurred by a member who sustains an accidental
31 injury to his or her teeth and who commences treatment by a legally
32 licensed dentist within ninety days after the accident;

33 (I) Nursing home confinement or hospital extended care facility;

34 (J) Physical therapy by a registered physical therapist;

35 (K) Blood transfusions, including the cost of blood and blood
36 plasma not replaced by voluntary donors;

37 (L) An optometrist licensed under the provisions of chapter 18.53
38 RCW.

1 (23) "Regular interest" means such rate as the director may
2 determine.

3 (24) "Retiree" for persons who establish membership in the
4 retirement system on or after October 1, 1977, means any member in
5 receipt of a retirement allowance or other benefit provided by this
6 chapter resulting from service rendered to an employer by such member.

7 (25) "Director" means the director of the department.

8 (26) "State actuary" or "actuary" means the person appointed
9 pursuant to RCW 44.44.010(2).

10 (27) "State elective position" means any position held by any
11 person elected or appointed to statewide office or elected or appointed
12 as a member of the legislature.

13 (28) "Plan 1" means the law enforcement officers' and fire
14 fighters' retirement system, plan 1 providing the benefits and funding
15 provisions covering persons who first became members of the system
16 prior to October 1, 1977.

17 (29) "Plan 2" means the law enforcement officers' and fire
18 fighters' retirement system, plan 2 providing the benefits and funding
19 provisions covering persons who first became members of the system on
20 and after October 1, 1977.

21 (30) "Service credit year" means an accumulation of months of
22 service credit which is equal to one when divided by twelve.

23 (31) "Service credit month" means a full service credit month or an
24 accumulation of partial service credit months that are equal to one.

25 (32) "General authority law enforcement agency" means any agency,
26 department, or division of a municipal corporation, political
27 subdivision, or other unit of local government of this state, and any
28 agency, department, or division of state government, having as its
29 primary function the detection and apprehension of persons committing
30 infractions or violating the traffic or criminal laws in general, but
31 not including the Washington state patrol. Such an agency, department,
32 or division is distinguished from a limited authority law enforcement
33 agency having as one of its functions the apprehension or detection of
34 persons committing infractions or violating the traffic or criminal
35 laws relating to limited subject areas, including but not limited to,
36 the state departments of natural resources and social and health
37 services, the state gambling commission, the state lottery commission,

1 the state parks and recreation commission, the state utilities and
2 transportation commission, the state liquor control board, and the
3 state department of corrections.

4 (33) "Domestic partner" has the definition in RCW 41.40.010.

5 **Sec. 12.** RCW 41.26.090 and 1991 sp.s. c 11 s 4 are each amended to
6 read as follows:

7 Retirement of a member for service shall be made by the department
8 as follows:

9 (1) Any member having five or more service credit years of service
10 and having attained the age of fifty years shall be eligible for a
11 service retirement allowance and shall be retired upon the member's
12 written request effective the first day following the date upon which
13 the member is separated from service.

14 (2) Any member having five or more service credit years of service,
15 who terminates his or her employment with any employer, may leave his
16 or her contributions in the fund. Any employee who so elects, upon
17 attaining age fifty, shall be eligible to apply for and receive a
18 service retirement allowance based on his or her years of service,
19 commencing on the first day following his or her attainment of age
20 fifty.

21 (3) Any member selecting optional vesting under subsection (2) of
22 this section with less than twenty service credit years of service
23 shall not be covered by the provisions of RCW 41.26.150, and the
24 member's survivors shall not be entitled to the benefits of RCW
25 41.26.160 unless his or her death occurs after he or she has attained
26 the age of fifty years. Those members selecting this optional vesting
27 with twenty or more years service shall not be covered by the
28 provisions of RCW 41.26.150 until the attainment of the age of fifty
29 years. A member selecting this optional vesting, with less than twenty
30 service credit years of service credit, who dies prior to attaining the
31 age of fifty years, shall have paid from the Washington law enforcement
32 officers' and fire fighters' retirement fund, to such member's
33 surviving spouse or domestic partner, if any, otherwise to such
34 beneficiary as the member shall have designated in writing, or if no
35 such designation has been made, to the personal representative of his
36 or her estate, a lump sum which is equal to the amount of such member's
37 accumulated contributions plus accrued interest. If the vested member

1 has twenty or more service credit years of service credit the surviving
2 spouse, domestic partner, or children shall then become eligible for
3 the benefits of RCW 41.26.160 regardless of the member's age at the
4 time of his or her death, to the exclusion of the lump sum amount
5 provided by this subsection.

6 (4) Any member who has attained the age of sixty years shall be
7 retired on the first day of the calendar month next succeeding that in
8 which said member shall have attained the age of sixty and may not
9 thereafter be employed as a law enforcement officer or fire fighter:
10 PROVIDED, That for any member who is elected or appointed to the office
11 of sheriff, chief of police, or fire chief, his or her election or
12 appointment shall be considered as a waiver of the age sixty provision
13 for retirement and nonemployment for whatever number of years remain in
14 his or her present term of office and any succeeding periods for which
15 he or she may be so elected or appointed. The provisions of this
16 subsection shall not apply to any member who is employed as a law
17 enforcement officer or fire fighter on March 1, 1970.

18 **Sec. 13.** RCW 41.26.160 and 2005 c 62 s 1 are each amended to read
19 as follows:

20 (1) In the event of the duty connected death of any member who is
21 in active service, or who has vested under the provisions of RCW
22 41.26.090 with twenty or more service credit years of service, or who
23 is on duty connected disability leave or retired for duty connected
24 disability, the surviving spouse or domestic partner shall become
25 entitled, subject to RCW 41.26.162, to receive a monthly allowance
26 equal to fifty percent of the final average salary at the date of death
27 if active, or the amount of retirement allowance the vested member
28 would have received at age fifty, or the amount of the retirement
29 allowance such retired member was receiving at the time of death if
30 retired for duty connected disability. The amount of this allowance
31 will be increased five percent of final average salary for each child
32 as defined in RCW 41.26.030(7), subject to a maximum combined allowance
33 of sixty percent of final average salary: PROVIDED, That if the child
34 or children is or are in the care of a legal guardian, payment of the
35 increase attributable to each child will be made to the child's legal
36 guardian or, in the absence of a legal guardian and if the member has

1 created a trust for the benefit of the child or children, payment of
2 the increase attributable to each child will be made to the trust.

3 (2) If at the time of the duty connected death of a vested member
4 with twenty or more service credit years of service as provided in
5 subsection (1) of this section or a member retired for duty connected
6 disability, the surviving spouse or domestic partner has not been
7 lawfully married to or in a domestic partnership with such member for
8 one year prior to retirement or separation from service if a vested
9 member, the surviving spouse or domestic partner shall not be eligible
10 to receive the benefits under this section: PROVIDED, That if a member
11 dies as a result of a disability incurred in the line of duty, then if
12 he or she was married at the time he or she was disabled, the surviving
13 spouse or domestic partner shall be eligible to receive the benefits
14 under this section.

15 (3) If there be no surviving spouse or domestic partner eligible to
16 receive benefits at the time of such member's duty connected death,
17 then the child or children of such member shall receive a monthly
18 allowance equal to thirty percent of final average salary for one child
19 and an additional ten percent for each additional child subject to a
20 maximum combined payment, under this subsection, of sixty percent of
21 final average salary. When there cease to be any eligible children as
22 defined in RCW 41.26.030(7), there shall be paid to the legal heirs of
23 the member the excess, if any, of accumulated contributions of the
24 member at the time of death over all payments made to survivors on his
25 or her behalf under this chapter: PROVIDED, That payments under this
26 subsection to children shall be prorated equally among the children, if
27 more than one. If the member has created a trust for the benefit of
28 the child or children, the payment shall be made to the trust.

29 (4) In the event that there is no surviving spouse or domestic
30 partner eligible to receive benefits under this section, and that there
31 be no child or children eligible to receive benefits under this
32 section, then the accumulated contributions shall be paid to the estate
33 of the member.

34 (5) If a surviving spouse or domestic partner receiving benefits
35 under this section remarries after June 13, 2002, the surviving spouse
36 or domestic partner shall continue to receive the benefits under this
37 section.

1 (6) If a surviving spouse or domestic partner receiving benefits
2 under the provisions of this section thereafter dies and there are
3 children as defined in RCW 41.26.030(7), payment to the spouse or
4 domestic partner shall cease and the child or children shall receive
5 the benefits as provided in subsection (3) of this section.

6 (7) The payment provided by this section shall become due the day
7 following the date of death and payments shall be retroactive to that
8 date.

9 **Sec. 14.** RCW 41.26.161 and 2005 c 62 s 2 are each amended to read
10 as follows:

11 (1) In the event of the nonduty connected death of any member who
12 is in active service, or who has vested under the provisions of RCW
13 41.26.090 with twenty or more service credit years of service, or who
14 is on disability leave or retired, whether for nonduty connected
15 disability or service, the surviving spouse or domestic partner shall
16 become entitled, subject to RCW 41.26.162, to receive a monthly
17 allowance equal to fifty percent of the final average salary at the
18 date of death if active, or the amount of retirement allowance the
19 vested member would have received at age fifty, or the amount of the
20 retirement allowance such retired member was receiving at the time of
21 death if retired for service or nonduty connected disability. The
22 amount of this allowance will be increased five percent of final
23 average salary for each child as defined in RCW 41.26.030(7), subject
24 to a maximum combined allowance of sixty percent of final average
25 salary: PROVIDED, That if the child or children is or are in the care
26 of a legal guardian, payment of the increase attributable to each child
27 will be made to the child's legal guardian or, in the absence of a
28 legal guardian and if the member has created a trust for the benefit of
29 the child or children, payment of the increase attributable to each
30 child will be made to the trust.

31 (2) If at the time of the death of a vested member with twenty or
32 more service credit years of service as provided in subsection (1) of
33 this section or a member retired for service or disability, the
34 surviving spouse or domestic partner has not been lawfully married to
35 or in a domestic partnership with such member for one year prior to
36 retirement or separation from service if a vested member, the surviving

1 spouse or domestic partner shall not be eligible to receive the
2 benefits under this section.

3 (3) If there be no surviving spouse or domestic partner eligible to
4 receive benefits at the time of such member's death, then the child or
5 children of such member shall receive a monthly allowance equal to
6 thirty percent of final average salary for one child and an additional
7 ten percent for each additional child subject to a maximum combined
8 payment, under this subsection, of sixty percent of final average
9 salary. When there cease to be any eligible children as defined in RCW
10 41.26.030(7), there shall be paid to the legal heirs of the member the
11 excess, if any, of accumulated contributions of the member at the time
12 of death over all payments made to survivors on his or her behalf under
13 this chapter: PROVIDED, That payments under this subsection to
14 children shall be prorated equally among the children, if more than
15 one. If the member has created a trust for the benefit of the child or
16 children, the payment shall be made to the trust.

17 (4) In the event that there is no surviving spouse or domestic
18 partner eligible to receive benefits under this section, and that there
19 be no child or children eligible to receive benefits under this
20 section, then the accumulated contributions shall be paid to the estate
21 of said member.

22 (5) If a surviving spouse or domestic partner receiving benefits
23 under this section remarries after June 13, 2002, the surviving spouse
24 or domestic partner shall continue to receive the benefits under this
25 section.

26 (6) If a surviving spouse or domestic partner receiving benefits
27 under the provisions of this section thereafter dies and there are
28 children as defined in RCW 41.26.030(7), payment to the spouse or
29 domestic partner shall cease and the child or children shall receive
30 the benefits as provided in subsection (3) of this section.

31 (7) The payment provided by this section shall become due the day
32 following the date of death and payments shall be retroactive to that
33 date.

34 **Sec. 15.** RCW 41.26.460 and 2003 c 294 s 3 are each amended to read
35 as follows:

36 (1) Upon retirement for service as prescribed in RCW 41.26.430 or

1 disability retirement under RCW 41.26.470, a member shall elect to have
2 the retirement allowance paid pursuant to the following options,
3 calculated so as to be actuarially equivalent to each other.

4 (a) Standard allowance. A member electing this option shall
5 receive a retirement allowance payable throughout such member's life.
6 However, if the retiree dies before the total of the retirement
7 allowance paid to such retiree equals the amount of such retiree's
8 accumulated contributions at the time of retirement, then the balance
9 shall be paid to the member's estate, or such person or persons, trust,
10 or organization as the retiree shall have nominated by written
11 designation duly executed and filed with the department; or if there be
12 no such designated person or persons still living at the time of the
13 retiree's death, then to the surviving spouse or domestic partner; or
14 if there be neither such designated person or persons still living at
15 the time of death nor a surviving spouse or domestic partner, then to
16 the retiree's legal representative.

17 (b) The department shall adopt rules that allow a member to select
18 a retirement option that pays the member a reduced retirement allowance
19 and upon death, such portion of the member's reduced retirement
20 allowance as the department by rule designates shall be continued
21 throughout the life of and paid to a designated person. Such person
22 shall be nominated by the member by written designation duly executed
23 and filed with the department at the time of retirement. The options
24 adopted by the department shall include, but are not limited to, a
25 joint and one hundred percent survivor option and a joint and fifty
26 percent survivor option.

27 (2)(a) A member, if married, must provide the written consent of
28 his or her spouse to the option selected under this section, except as
29 provided in (b) of this subsection. If a member is married and both
30 the member and member's spouse do not give written consent to an option
31 under this section, the department will pay the member a joint and
32 fifty percent survivor benefit and record the member's spouse as the
33 beneficiary. Such benefit shall be calculated to be actuarially
34 equivalent to the benefit options available under subsection (1) of
35 this section unless spousal consent is not required as provided in (b)
36 of this subsection.

37 (b) If a copy of a dissolution order designating a survivor

1 beneficiary under RCW 41.50.790 has been filed with the department at
2 least thirty days prior to a member's retirement:

3 (i) The department shall honor the designation as if made by the
4 member under subsection (1) of this section; and

5 (ii) The spousal consent provisions of (a) of this subsection do
6 not apply.

7 (3)(a) Any member who retired before January 1, 1996, and who
8 elected to receive a reduced retirement allowance under subsection
9 (1)(b) or (2) of this section is entitled to receive a retirement
10 allowance adjusted in accordance with (b) of this subsection, if they
11 meet the following conditions:

12 (i) The retiree's designated beneficiary predeceases or has
13 predeceased the retiree; and

14 (ii) The retiree provides to the department proper proof of the
15 designated beneficiary's death.

16 (b) The retirement allowance payable to the retiree, as of July 1,
17 1998, or the date of the designated beneficiary's death, whichever
18 comes last, shall be increased by the percentage derived in (c) of this
19 subsection.

20 (c) The percentage increase shall be derived by the following:

21 (i) One hundred percent multiplied by the result of (c)(ii) of this
22 subsection converted to a percent;

23 (ii) Subtract one from the reciprocal of the appropriate joint and
24 survivor option factor;

25 (iii) The joint and survivor option factor shall be from the table
26 in effect as of July 1, 1998.

27 (d) The adjustment under (b) of this subsection shall accrue from
28 the beginning of the month following the date of the designated
29 beneficiary's death or from July 1, 1998, whichever comes last.

30 (4) No later than July 1, 2001, the department shall adopt rules
31 that allow a member additional actuarially equivalent survivor benefit
32 options, and shall include, but are not limited to:

33 (a)(i) A retired member who retired without designating a survivor
34 beneficiary shall have the opportunity to designate (~~their~~) his or
35 her spouse or domestic partner from a postretirement marriage or
36 postretirement domestic partnership as a survivor during a one-year
37 period beginning one year after the date of the postretirement marriage
38 or postretirement domestic partnership provided the retirement

1 allowance payable to the retiree is not subject to periodic payments
2 pursuant to a property division obligation as provided for in RCW
3 41.50.670.

4 (ii) A member who entered into a postretirement marriage or
5 postretirement domestic partnership prior to the effective date of the
6 rules adopted pursuant to this subsection and satisfies the conditions
7 of (a)(i) of this subsection shall have one year to designate their
8 spouse or domestic partner as a survivor beneficiary following the
9 adoption of the rules, however in the case of a domestic partnership,
10 the member must make the designation by the effective date of this
11 section.

12 (b) A retired member who elected to receive a reduced retirement
13 allowance under this section and designated a nonspouse as survivor
14 beneficiary shall have the opportunity to remove the survivor
15 designation and have their future benefit adjusted.

16 (c) The department may make an additional charge, if necessary, to
17 ensure that the benefits provided under this subsection remain
18 actuarially equivalent.

19 (5) No later than July 1, 2003, the department shall adopt rules to
20 permit:

21 (a) A court-approved property settlement incident to a court decree
22 of dissolution made before retirement to provide that benefits payable
23 to a member who meets the length of service requirements of RCW
24 41.26.530(1) and the member's divorcing spouse be divided into two
25 separate benefits payable over the life of each spouse.

26 The member shall have available the benefit options of subsection
27 (1) of this section upon retirement, and if remarried at the time of
28 retirement remains subject to the spousal consent requirements of
29 subsection (2) of this section. Any reductions of the member's benefit
30 subsequent to the division into two separate benefits shall be made
31 solely to the separate benefit of the member.

32 The nonmember ex spouse shall be eligible to commence receiving
33 their separate benefit upon reaching the ages provided in RCW
34 41.26.430(1) and after filing a written application with the
35 department.

36 (b) A court-approved property settlement incident to a court decree
37 of dissolution made after retirement may only divide the benefit into

1 two separate benefits payable over the life of each spouse if the
2 nonmember ex spouse was selected as a survivor beneficiary at
3 retirement.

4 The retired member may later choose the survivor benefit options
5 available in subsection (4) of this section. Any actuarial reductions
6 subsequent to the division into two separate benefits shall be made
7 solely to the separate benefit of the member.

8 Both the retired member and the nonmember divorced spouse shall be
9 eligible to commence receiving their separate benefits upon filing a
10 copy of the dissolution order with the department in accordance with
11 RCW 41.50.670.

12 (c) The department may make an additional charge or adjustment if
13 necessary to ensure that the separate benefits provided under this
14 subsection are actuarially equivalent to the benefits payable prior to
15 the decree of dissolution.

16 **Sec. 16.** RCW 41.26.470 and 2006 c 39 s 1 are each amended to read
17 as follows:

18 (1) A member of the retirement system who becomes totally
19 incapacitated for continued employment by an employer as determined by
20 the director shall be eligible to receive an allowance under the
21 provisions of RCW 41.26.410 through 41.26.550. Such member shall
22 receive a monthly disability allowance computed as provided for in RCW
23 41.26.420 and shall have such allowance actuarially reduced to reflect
24 the difference in the number of years between age at disability and the
25 attainment of age fifty-three, except under subsection (7) of this
26 section.

27 (2) Any member who receives an allowance under the provisions of
28 this section shall be subject to such comprehensive medical
29 examinations as required by the department. If such medical
30 examinations reveal that such a member has recovered from the
31 incapacitating disability and the member is no longer entitled to
32 benefits under Title 51 RCW, the retirement allowance shall be canceled
33 and the member shall be restored to duty in the same civil service
34 rank, if any, held by the member at the time of retirement or, if
35 unable to perform the duties of the rank, then, at the member's
36 request, in such other like or lesser rank as may be or become open and
37 available, the duties of which the member is then able to perform. In

1 no event shall a member previously drawing a disability allowance be
2 returned or be restored to duty at a salary or rate of pay less than
3 the current salary attached to the rank or position held by the member
4 at the date of the retirement for disability. If the department
5 determines that the member is able to return to service, the member is
6 entitled to notice and a hearing. Both the notice and the hearing
7 shall comply with the requirements of chapter 34.05 RCW, the
8 administrative procedure act.

9 (3) Those members subject to this chapter who became disabled in
10 the line of duty on or after July 23, 1989, and who receive benefits
11 under RCW 41.04.500 through 41.04.530 or similar benefits under RCW
12 41.04.535 shall receive or continue to receive service credit subject
13 to the following:

14 (a) No member may receive more than one month's service credit in
15 a calendar month.

16 (b) No service credit under this section may be allowed after a
17 member separates or is separated without leave of absence.

18 (c) Employer contributions shall be paid by the employer at the
19 rate in effect for the period of the service credited.

20 (d) Employee contributions shall be collected by the employer and
21 paid to the department at the rate in effect for the period of service
22 credited.

23 (e) State contributions shall be as provided in RCW 41.45.060 and
24 41.45.067.

25 (f) Contributions shall be based on the regular compensation which
26 the member would have received had the disability not occurred.

27 (g) The service and compensation credit under this section shall be
28 granted for a period not to exceed six consecutive months.

29 (h) Should the legislature revoke the service credit authorized
30 under this section or repeal this section, no affected employee is
31 entitled to receive the credit as a matter of contractual right.

32 (4)(a) If the recipient of a monthly retirement allowance under
33 this section dies before the total of the retirement allowance paid to
34 the recipient equals the amount of the accumulated contributions at the
35 date of retirement, then the balance shall be paid to the member's
36 estate, or such person or persons, trust, or organization as the
37 recipient has nominated by written designation duly executed and filed
38 with the director, or, if there is no such designated person or persons

1 still living at the time of the recipient's death, then to the
2 surviving spouse or domestic partner, or, if there is neither such
3 designated person or persons still living at the time of his or her
4 death nor a surviving spouse or domestic partner, then to his or her
5 legal representative.

6 (b) If a recipient of a monthly retirement allowance under this
7 section died before April 27, 1989, and before the total of the
8 retirement allowance paid to the recipient equaled the amount of his or
9 her accumulated contributions at the date of retirement, then the
10 department shall pay the balance of the accumulated contributions to
11 the member's surviving spouse or domestic partner or, if there is no
12 surviving spouse or domestic partner, then in equal shares to the
13 member's children. If there is no surviving spouse, domestic partner,
14 or children, the department shall retain the contributions.

15 (5) Should the disability retirement allowance of any disability
16 beneficiary be canceled for any cause other than reentrance into
17 service or retirement for service, he or she shall be paid the excess,
18 if any, of the accumulated contributions at the time of retirement over
19 all payments made on his or her behalf under this chapter.

20 (6) A member who becomes disabled in the line of duty, and who
21 ceases to be an employee of an employer except by service or disability
22 retirement, may request a refund of one hundred fifty percent of the
23 member's accumulated contributions. Any accumulated contributions
24 attributable to restorations made under RCW 41.50.165(2) shall be
25 refunded at one hundred percent. A person in receipt of this benefit
26 is a retiree.

27 (7) A member who becomes disabled in the line of duty shall be
28 entitled to receive a minimum retirement allowance equal to ten percent
29 of such member's final average salary. The member shall additionally
30 receive a retirement allowance equal to two percent of such member's
31 average final salary for each year of service beyond five.

32 (8) A member who is totally disabled in the line of duty is
33 entitled to receive a retirement allowance equal to seventy percent of
34 the member's final average salary. The allowance provided under this
35 subsection shall be offset by:

36 (a) Temporary disability wage-replacement benefits or permanent
37 total disability benefits provided to the member under Title 51 RCW;
38 and

1 (b) Federal social security disability benefits, if any;
2 so that such an allowance does not result in the member receiving
3 combined benefits that exceed one hundred percent of the member's final
4 average salary. However, the offsets shall not in any case reduce the
5 allowance provided under this subsection below the member's accrued
6 retirement allowance.

7 A member is considered totally disabled if he or she is unable to
8 perform any substantial gainful activity due to a physical or mental
9 condition that may be expected to result in death or that has lasted or
10 is expected to last at least twelve months. Substantial gainful
11 activity is defined as average earnings in excess of eight hundred
12 sixty dollars a month in 2006 adjusted annually as determined by the
13 director based on federal social security disability standards. The
14 department may require a person in receipt of an allowance under this
15 subsection to provide any financial records that are necessary to
16 determine continued eligibility for such an allowance. A person in
17 receipt of an allowance under this subsection whose earnings exceed the
18 threshold for substantial gainful activity shall have (~~their~~) his or
19 her benefit converted to a line-of-duty disability retirement allowance
20 as provided in subsection (7) of this section.

21 Any person in receipt of an allowance under the provisions of this
22 section is subject to comprehensive medical examinations as may be
23 required by the department under subsection (2) of this section in
24 order to determine continued eligibility for such an allowance.

25 **Sec. 17.** RCW 41.26.510 and 2006 c 345 s 1 are each amended to read
26 as follows:

27 (1) Except as provided in RCW 11.07.010, if a member or a vested
28 member who has not completed at least ten years of service dies, the
29 amount of the accumulated contributions standing to such member's
30 credit in the retirement system at the time of such member's death,
31 less any amount identified as owing to an obligee upon withdrawal of
32 accumulated contributions pursuant to a court order filed under RCW
33 41.50.670, shall be paid to the member's estate, or such person or
34 persons, trust, or organization as the member shall have nominated by
35 written designation duly executed and filed with the department. If
36 there be no such designated person or persons still living at the time
37 of the member's death, such member's accumulated contributions standing

1 to such member's credit in the retirement system, less any amount
2 identified as owing to an obligee upon withdrawal of accumulated
3 contributions pursuant to a court order filed under RCW 41.50.670,
4 shall be paid to the member's surviving spouse or domestic partner as
5 if in fact such spouse or domestic partner had been nominated by
6 written designation, or if there be no such surviving spouse or
7 domestic partner, then to such member's legal representatives.

8 (2) If a member who is eligible for retirement or a member who has
9 completed at least ten years of service dies, the surviving spouse,
10 domestic partner, or eligible child or children shall elect to receive
11 either:

12 (a) A retirement allowance computed as provided for in RCW
13 41.26.430, actuarially reduced by the amount of any lump sum benefit
14 identified as owing to an obligee upon withdrawal of accumulated
15 contributions pursuant to a court order filed under RCW 41.50.670 and
16 actuarially adjusted to reflect a joint and one hundred percent
17 survivor option under RCW 41.26.460 and if the member was not eligible
18 for normal retirement at the date of death a further reduction as
19 described in RCW 41.26.430; if a surviving spouse or domestic partner
20 who is receiving a retirement allowance dies leaving a child or
21 children of the member under the age of majority, then such child or
22 children shall continue to receive an allowance in an amount equal to
23 that which was being received by the surviving spouse or domestic
24 partner, share and share alike, until such child or children reach the
25 age of majority; if there is no surviving spouse or domestic partner
26 eligible to receive an allowance at the time of the member's death,
27 such member's child or children under the age of majority shall receive
28 an allowance share and share alike calculated as herein provided making
29 the assumption that the ages of the spouse or domestic partner and
30 member were equal at the time of the member's death; or

31 (b)(i) The member's accumulated contributions, less any amount
32 identified as owing to an obligee upon withdrawal of accumulated
33 contributions pursuant to a court order filed under RCW 41.50.670; or

34 (ii) If the member dies on or after July 25, 1993, one hundred
35 fifty percent of the member's accumulated contributions, less any
36 amount identified as owing to an obligee upon withdrawal of accumulated
37 contributions pursuant to a court order filed under RCW 41.50.670. Any

1 accumulated contributions attributable to restorations made under RCW
2 41.50.165(2) shall be refunded at one hundred percent.

3 (3) If a member who is eligible for retirement or a member who has
4 completed at least ten years of service dies after October 1, 1977, and
5 is not survived by a spouse, domestic partner, or an eligible child,
6 then the accumulated contributions standing to the member's credit,
7 less any amount identified as owing to an obligee upon withdrawal of
8 accumulated contributions pursuant to a court order filed under RCW
9 41.50.670, shall be paid:

10 (a) To an estate, a person or persons, trust, or organization as
11 the member shall have nominated by written designation duly executed
12 and filed with the department; or

13 (b) If there is no such designated person or persons still living
14 at the time of the member's death, then to the member's legal
15 representatives.

16 (4) The retirement allowance of a member who is killed in the
17 course of employment, as determined by the director of the department
18 of labor and industries, is not subject to an actuarial reduction. The
19 member's retirement allowance is computed under RCW 41.26.420.

20 (5) The retirement allowance paid to the spouse or domestic partner
21 and dependent children of a member who is killed in the course of
22 employment, as set forth in RCW 41.05.011(14), shall include
23 reimbursement for any payments of premium rates to the Washington state
24 health care authority pursuant to RCW 41.05.080.

25 **Sec. 18.** RCW 41.26.520 and 2005 c 64 s 9 are each amended to read
26 as follows:

27 (1) A member who is on a paid leave of absence authorized by a
28 member's employer shall continue to receive service credit as provided
29 for under the provisions of RCW 41.26.410 through 41.26.550.

30 (2) A member who receives compensation from an employer while on an
31 authorized leave of absence to serve as an elected official of a labor
32 organization, and whose employer is reimbursed by the labor
33 organization for the compensation paid to the member during the period
34 of absence, may also be considered to be on a paid leave of absence.
35 This subsection shall only apply if the member's leave of absence is
36 authorized by a collective bargaining agreement that provides that the
37 member retains seniority rights with the employer during the period of

1 leave. The basic salary reported for a member who establishes service
2 credit under this subsection may not be greater than the salary paid to
3 the highest paid job class covered by the collective bargaining
4 agreement.

5 (3) Except as specified in subsection (7) of this section, a member
6 shall be eligible to receive a maximum of two years' service credit
7 during a member's entire working career for those periods when a member
8 is on an unpaid leave of absence authorized by an employer. Such
9 credit may be obtained only if the member makes the employer, member,
10 and state contributions plus interest as determined by the department
11 for the period of the authorized leave of absence within five years of
12 resumption of service or prior to retirement whichever comes sooner.

13 (4) A law enforcement member may be authorized by an employer to
14 work part time and to go on a part-time leave of absence. During a
15 part-time leave of absence a member is prohibited from any other
16 employment with their employer. A member is eligible to receive credit
17 for any portion of service credit not earned during a month of part-
18 time leave of absence if the member makes the employer, member, and
19 state contributions, plus interest, as determined by the department for
20 the period of the authorized leave within five years of resumption of
21 full-time service or prior to retirement whichever comes sooner. Any
22 service credit purchased for a part-time leave of absence is included
23 in the two-year maximum provided in subsection (3) of this section.

24 (5) If a member fails to meet the time limitations of subsection
25 (3) or (4) of this section, the member may receive a maximum of two
26 years of service credit during a member's working career for those
27 periods when a member is on unpaid leave of absence authorized by an
28 employer. This may be done by paying the amount required under RCW
29 41.50.165(2) prior to retirement.

30 (6) For the purpose of subsection (3) or (4) of this section the
31 contribution shall not include the contribution for the unfunded
32 supplemental present value as required by RCW 41.45.060, 41.45.061, and
33 41.45.067. The contributions required shall be based on the average of
34 the member's basic salary at both the time the authorized leave of
35 absence was granted and the time the member resumed employment.

36 (7) A member who leaves the employ of an employer to enter the
37 uniformed services of the United States shall be entitled to retirement
38 system service credit for up to five years of military service. This

1 subsection shall be administered in a manner consistent with the
2 requirements of the federal uniformed services employment and
3 reemployment rights act.

4 (a) The member qualifies for service credit under this subsection
5 if:

6 (i) Within ninety days of the member's honorable discharge from the
7 uniformed services of the United States, the member applies for
8 reemployment with the employer who employed the member immediately
9 prior to the member entering the uniformed services; and

10 (ii) The member makes the employee contributions required under RCW
11 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of
12 service or prior to retirement, whichever comes sooner; or

13 (iii) Prior to retirement and not within ninety days of the
14 member's honorable discharge or five years of resumption of service the
15 member pays the amount required under RCW 41.50.165(2).

16 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
17 or (e)(iii) of this subsection, the department shall establish the
18 member's service credit and shall bill the employer and the state for
19 their respective contributions required under RCW 41.26.450 for the
20 period of military service, plus interest as determined by the
21 department.

22 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
23 of this subsection shall be based on the compensation the member would
24 have earned if not on leave, or if that cannot be estimated with
25 reasonable certainty, the compensation reported for the member in the
26 year prior to when the member went on military leave.

27 (d) The surviving spouse, domestic partner, or eligible child or
28 children of a member who left the employ of an employer to enter the
29 uniformed services of the United States and died while serving in the
30 uniformed services may, on behalf of the deceased member, apply for
31 retirement system service credit under this subsection up to the date
32 of the member's death in the uniformed services. The department shall
33 establish the deceased member's service credit if the surviving spouse,
34 domestic partner, or eligible child or children:

35 (i) Provides to the director proof of the member's death while
36 serving in the uniformed services;

37 (ii) Provides to the director proof of the member's honorable
38 service in the uniformed services prior to the date of death; and

1 (iii) Pays the employee contributions required under chapter 41.45
2 RCW within five years of the date of death or prior to the distribution
3 of any benefit, whichever comes first.

4 (e) A member who leaves the employ of an employer to enter the
5 uniformed services of the United States and becomes totally
6 incapacitated for continued employment by an employer while serving in
7 the uniformed services is entitled to retirement system service credit
8 under this subsection up to the date of discharge from the uniformed
9 services if:

10 (i) The member obtains a determination from the director that he or
11 she is totally incapacitated for continued employment due to conditions
12 or events that occurred while serving in the uniformed services;

13 (ii) The member provides to the director proof of honorable
14 discharge from the uniformed services; and

15 (iii) The member pays the employee contributions required under
16 chapter 41.45 RCW within five years of the director's determination of
17 total disability or prior to the distribution of any benefit, whichever
18 comes first.

19 (8) A member receiving benefits under Title 51 RCW who is not
20 receiving benefits under this chapter shall be deemed to be on unpaid,
21 authorized leave of absence.

22 **Sec. 19.** RCW 41.32.010 and 2005 c 131 s 8 and 2005 c 23 s 1 are
23 each reenacted and amended to read as follows:

24 As used in this chapter, unless a different meaning is plainly
25 required by the context:

26 (1)(a) "Accumulated contributions" for plan 1 members, means the
27 sum of all regular annuity contributions and, except for the purpose of
28 withdrawal at the time of retirement, any amount paid under RCW
29 41.50.165(2) with regular interest thereon.

30 (b) "Accumulated contributions" for plan 2 members, means the sum
31 of all contributions standing to the credit of a member in the member's
32 individual account, including any amount paid under RCW 41.50.165(2),
33 together with the regular interest thereon.

34 (2) "Actuarial equivalent" means a benefit of equal value when
35 computed upon the basis of such mortality tables and regulations as
36 shall be adopted by the director and regular interest.

1 (3) "Annuity" means the moneys payable per year during life by
2 reason of accumulated contributions of a member.

3 (4) "Member reserve" means the fund in which all of the accumulated
4 contributions of members are held.

5 (5)(a) "Beneficiary" for plan 1 members, means any person in
6 receipt of a retirement allowance or other benefit provided by this
7 chapter.

8 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
9 in receipt of a retirement allowance or other benefit provided by this
10 chapter resulting from service rendered to an employer by another
11 person.

12 (6) "Contract" means any agreement for service and compensation
13 between a member and an employer.

14 (7) "Creditable service" means membership service plus prior
15 service for which credit is allowable. This subsection shall apply
16 only to plan 1 members.

17 (8) "Dependent" means receiving one-half or more of support from a
18 member.

19 (9) "Disability allowance" means monthly payments during
20 disability. This subsection shall apply only to plan 1 members.

21 (10)(a) "Earnable compensation" for plan 1 members, means:

22 (i) All salaries and wages paid by an employer to an employee
23 member of the retirement system for personal services rendered during
24 a fiscal year. In all cases where compensation includes maintenance
25 the employer shall fix the value of that part of the compensation not
26 paid in money.

27 (ii) For an employee member of the retirement system teaching in an
28 extended school year program, two consecutive extended school years, as
29 defined by the employer school district, may be used as the annual
30 period for determining earnable compensation in lieu of the two fiscal
31 years.

32 (iii) "Earnable compensation" for plan 1 members also includes the
33 following actual or imputed payments, which are not paid for personal
34 services:

35 (A) Retroactive payments to an individual by an employer on
36 reinstatement of the employee in a position, or payments by an employer
37 to an individual in lieu of reinstatement in a position which are
38 awarded or granted as the equivalent of the salary or wages which the

1 individual would have earned during a payroll period shall be
2 considered earnable compensation and the individual shall receive the
3 equivalent service credit.

4 (B) If a leave of absence, without pay, is taken by a member for
5 the purpose of serving as a member of the state legislature, and such
6 member has served in the legislature five or more years, the salary
7 which would have been received for the position from which the leave of
8 absence was taken shall be considered as compensation earnable if the
9 employee's contribution thereon is paid by the employee. In addition,
10 where a member has been a member of the state legislature for five or
11 more years, earnable compensation for the member's two highest
12 compensated consecutive years of service shall include a sum not to
13 exceed thirty-six hundred dollars for each of such two consecutive
14 years, regardless of whether or not legislative service was rendered
15 during those two years.

16 (iv) For members employed less than full time under written
17 contract with a school district, or community college district, in an
18 instructional position, for which the member receives service credit of
19 less than one year in all of the years used to determine the earnable
20 compensation used for computing benefits due under RCW 41.32.497,
21 41.32.498, and 41.32.520, the member may elect to have earnable
22 compensation defined as provided in RCW 41.32.345. For the purposes of
23 this subsection, the term "instructional position" means a position in
24 which more than seventy-five percent of the member's time is spent as
25 a classroom instructor (including office hours), a librarian, a
26 psychologist, a social worker, a nurse, a physical therapist, an
27 occupational therapist, a speech language pathologist or audiologist,
28 or a counselor. Earnable compensation shall be so defined only for the
29 purpose of the calculation of retirement benefits and only as necessary
30 to insure that members who receive fractional service credit under RCW
31 41.32.270 receive benefits proportional to those received by members
32 who have received full-time service credit.

33 (v) "Earnable compensation" does not include:

34 (A) Remuneration for unused sick leave authorized under RCW
35 41.04.340, 28A.400.210, or 28A.310.490;

36 (B) Remuneration for unused annual leave in excess of thirty days
37 as authorized by RCW 43.01.044 and 43.01.041.

1 (b) "Earnable compensation" for plan 2 and plan 3 members, means
2 salaries or wages earned by a member during a payroll period for
3 personal services, including overtime payments, and shall include wages
4 and salaries deferred under provisions established pursuant to sections
5 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
6 shall exclude lump sum payments for deferred annual sick leave, unused
7 accumulated vacation, unused accumulated annual leave, or any form of
8 severance pay.

9 "Earnable compensation" for plan 2 and plan 3 members also includes
10 the following actual or imputed payments which, except in the case of
11 (b)(ii)(B) of this subsection, are not paid for personal services:

12 (i) Retroactive payments to an individual by an employer on
13 reinstatement of the employee in a position or payments by an employer
14 to an individual in lieu of reinstatement in a position which are
15 awarded or granted as the equivalent of the salary or wages which the
16 individual would have earned during a payroll period shall be
17 considered earnable compensation, to the extent provided above, and the
18 individual shall receive the equivalent service credit.

19 (ii) In any year in which a member serves in the legislature the
20 member shall have the option of having such member's earnable
21 compensation be the greater of:

22 (A) The earnable compensation the member would have received had
23 such member not served in the legislature; or

24 (B) Such member's actual earnable compensation received for
25 teaching and legislative service combined. Any additional
26 contributions to the retirement system required because compensation
27 earnable under (b)(ii)(A) of this subsection is greater than
28 compensation earnable under (b)(ii)(B) of this subsection shall be paid
29 by the member for both member and employer contributions.

30 (11) "Employer" means the state of Washington, the school district,
31 or any agency of the state of Washington by which the member is paid.

32 (12) "Fiscal year" means a year which begins July 1st and ends June
33 30th of the following year.

34 (13) "Former state fund" means the state retirement fund in
35 operation for teachers under chapter 187, Laws of 1923, as amended.

36 (14) "Local fund" means any of the local retirement funds for
37 teachers operated in any school district in accordance with the
38 provisions of chapter 163, Laws of 1917 as amended.

1 (15) "Member" means any teacher included in the membership of the
2 retirement system who has not been removed from membership under RCW
3 41.32.878 or 41.32.768. Also, any other employee of the public schools
4 who, on July 1, 1947, had not elected to be exempt from membership and
5 who, prior to that date, had by an authorized payroll deduction,
6 contributed to the member reserve.

7 (16) "Membership service" means service rendered subsequent to the
8 first day of eligibility of a person to membership in the retirement
9 system: PROVIDED, That where a member is employed by two or more
10 employers the individual shall receive no more than one service credit
11 month during any calendar month in which multiple service is rendered.
12 The provisions of this subsection shall apply only to plan 1 members.

13 (17) "Pension" means the moneys payable per year during life from
14 the pension reserve.

15 (18) "Pension reserve" is a fund in which shall be accumulated an
16 actuarial reserve adequate to meet present and future pension
17 liabilities of the system and from which all pension obligations are to
18 be paid.

19 (19) "Prior service" means service rendered prior to the first date
20 of eligibility to membership in the retirement system for which credit
21 is allowable. The provisions of this subsection shall apply only to
22 plan 1 members.

23 (20) "Prior service contributions" means contributions made by a
24 member to secure credit for prior service. The provisions of this
25 subsection shall apply only to plan 1 members.

26 (21) "Public school" means any institution or activity operated by
27 the state of Washington or any instrumentality or political subdivision
28 thereof employing teachers, except the University of Washington and
29 Washington State University.

30 (22) "Regular contributions" means the amounts required to be
31 deducted from the compensation of a member and credited to the member's
32 individual account in the member reserve. This subsection shall apply
33 only to plan 1 members.

34 (23) "Regular interest" means such rate as the director may
35 determine.

36 (24)(a) "Retirement allowance" for plan 1 members, means monthly
37 payments based on the sum of annuity and pension, or any optional
38 benefits payable in lieu thereof.

1 (b) "Retirement allowance" for plan 2 and plan 3 members, means
2 monthly payments to a retiree or beneficiary as provided in this
3 chapter.

4 (25) "Retirement system" means the Washington state teachers'
5 retirement system.

6 (26)(a) "Service" for plan 1 members means the time during which a
7 member has been employed by an employer for compensation.

8 (i) If a member is employed by two or more employers the individual
9 shall receive no more than one service credit month during any calendar
10 month in which multiple service is rendered.

11 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
12 sick leave may be creditable as service solely for the purpose of
13 determining eligibility to retire under RCW 41.32.470.

14 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
15 state retirement system that covers teachers in public schools may be
16 applied solely for the purpose of determining eligibility to retire
17 under RCW 41.32.470.

18 (b) "Service" for plan 2 and plan 3 members, means periods of
19 employment by a member for one or more employers for which earnable
20 compensation is earned subject to the following conditions:

21 (i) A member employed in an eligible position or as a substitute
22 shall receive one service credit month for each month of September
23 through August of the following year if he or she earns earnable
24 compensation for eight hundred ten or more hours during that period and
25 is employed during nine of those months, except that a member may not
26 receive credit for any period prior to the member's employment in an
27 eligible position except as provided in RCW 41.32.812 and 41.50.132;

28 (ii) If a member is employed either in an eligible position or as
29 a substitute teacher for nine months of the twelve month period between
30 September through August of the following year but earns earnable
31 compensation for less than eight hundred ten hours but for at least six
32 hundred thirty hours, he or she will receive one-half of a service
33 credit month for each month of the twelve month period;

34 (iii) All other members in an eligible position or as a substitute
35 teacher shall receive service credit as follows:

36 (A) A service credit month is earned in those calendar months where
37 earnable compensation is earned for ninety or more hours;

1 (B) A half-service credit month is earned in those calendar months
2 where earnable compensation is earned for at least seventy hours but
3 less than ninety hours; and

4 (C) A quarter-service credit month is earned in those calendar
5 months where earnable compensation is earned for less than seventy
6 hours.

7 (iv) Any person who is a member of the teachers' retirement system
8 and who is elected or appointed to a state elective position may
9 continue to be a member of the retirement system and continue to
10 receive a service credit month for each of the months in a state
11 elective position by making the required member contributions.

12 (v) When an individual is employed by two or more employers the
13 individual shall only receive one month's service credit during any
14 calendar month in which multiple service for ninety or more hours is
15 rendered.

16 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
17 sick leave may be creditable as service solely for the purpose of
18 determining eligibility to retire under RCW 41.32.470. For purposes of
19 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
20 to two service credit months. Use of less than forty-five days of sick
21 leave is creditable as allowed under this subsection as follows:

22 (A) Less than eleven days equals one-quarter service credit month;

23 (B) Eleven or more days but less than twenty-two days equals one-
24 half service credit month;

25 (C) Twenty-two days equals one service credit month;

26 (D) More than twenty-two days but less than thirty-three days
27 equals one and one-quarter service credit month;

28 (E) Thirty-three or more days but less than forty-five days equals
29 one and one-half service credit month.

30 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
31 state retirement system that covers teachers in public schools may be
32 applied solely for the purpose of determining eligibility to retire
33 under RCW 41.32.470.

34 (viii) The department shall adopt rules implementing this
35 subsection.

36 (27) "Service credit year" means an accumulation of months of
37 service credit which is equal to one when divided by twelve.

1 (28) "Service credit month" means a full service credit month or an
2 accumulation of partial service credit months that are equal to one.

3 (29) "Teacher" means any person qualified to teach who is engaged
4 by a public school in an instructional, administrative, or supervisory
5 capacity. The term includes state, educational service district, and
6 school district superintendents and their assistants and all employees
7 certificated by the superintendent of public instruction; and in
8 addition thereto any full time school doctor who is employed by a
9 public school and renders service of an instructional or educational
10 nature.

11 (30) "Average final compensation" for plan 2 and plan 3 members,
12 means the member's average earnable compensation of the highest
13 consecutive sixty service credit months prior to such member's
14 retirement, termination, or death. Periods constituting authorized
15 leaves of absence may not be used in the calculation of average final
16 compensation except under RCW 41.32.810(2).

17 (31) "Retiree" means any person who has begun accruing a retirement
18 allowance or other benefit provided by this chapter resulting from
19 service rendered to an employer while a member.

20 (32) "Department" means the department of retirement systems
21 created in chapter 41.50 RCW.

22 (33) "Director" means the director of the department.

23 (34) "State elective position" means any position held by any
24 person elected or appointed to statewide office or elected or appointed
25 as a member of the legislature.

26 (35) "State actuary" or "actuary" means the person appointed
27 pursuant to RCW 44.44.010(2).

28 (36) "Substitute teacher" means:

29 (a) A teacher who is hired by an employer to work as a temporary
30 teacher, except for teachers who are annual contract employees of an
31 employer and are guaranteed a minimum number of hours; or

32 (b) Teachers who either (i) work in ineligible positions for more
33 than one employer or (ii) work in an ineligible position or positions
34 together with an eligible position.

35 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,
36 through September 1, 1991, means a position which normally requires two
37 or more uninterrupted months of creditable service during September
38 through August of the following year.

1 (b) "Eligible position" for plan 2 and plan 3 on and after
2 September 1, 1991, means a position that, as defined by the employer,
3 normally requires five or more months of at least seventy hours of
4 earnable compensation during September through August of the following
5 year.

6 (c) For purposes of this chapter an employer shall not define
7 "position" in such a manner that an employee's monthly work for that
8 employer is divided into more than one position.

9 (d) The elected position of the superintendent of public
10 instruction is an eligible position.

11 (38) "Plan 1" means the teachers' retirement system, plan 1
12 providing the benefits and funding provisions covering persons who
13 first became members of the system prior to October 1, 1977.

14 (39) "Plan 2" means the teachers' retirement system, plan 2
15 providing the benefits and funding provisions covering persons who
16 first became members of the system on and after October 1, 1977, and
17 prior to July 1, 1996.

18 (40) "Plan 3" means the teachers' retirement system, plan 3
19 providing the benefits and funding provisions covering persons who
20 first become members of the system on and after July 1, 1996, or who
21 transfer under RCW 41.32.817.

22 (41) "Index" means, for any calendar year, that year's annual
23 average consumer price index, Seattle, Washington area, for urban wage
24 earners and clerical workers, all items compiled by the bureau of labor
25 statistics, United States department of labor.

26 (42) "Index A" means the index for the year prior to the
27 determination of a postretirement adjustment.

28 (43) "Index B" means the index for the year prior to index A.

29 (44) "Index year" means the earliest calendar year in which the
30 index is more than sixty percent of index A.

31 (45) "Adjustment ratio" means the value of index A divided by index
32 B.

33 (46) "Annual increase" means, initially, fifty-nine cents per month
34 per year of service which amount shall be increased each July 1st by
35 three percent, rounded to the nearest cent.

36 (47) "Member account" or "member's account" for purposes of plan 3
37 means the sum of the contributions and earnings on behalf of the member
38 in the defined contribution portion of plan 3.

1 (48) "Separation from service or employment" occurs when a person
2 has terminated all employment with an employer.

3 (49) "Employed" or "employee" means a person who is providing
4 services for compensation to an employer, unless the person is free
5 from the employer's direction and control over the performance of work.
6 The department shall adopt rules and interpret this subsection
7 consistent with common law.

8 (50) "Domestic partner" has the definition in RCW 41.40.010.

9 **Sec. 20.** RCW 41.32.260 and 2005 c 64 s 6 are each amended to read
10 as follows:

11 Any member whose public school service is interrupted by active
12 service to the United States as a member of its uniformed services, or
13 to the state of Washington, as a member of the legislature, may upon
14 becoming reemployed in the public schools, receive credit for that
15 service upon presenting satisfactory proof, and contributing to the
16 member reserve, either in a lump sum or installments, amounts
17 determined by the director. Except that no military service credit in
18 excess of five years shall be established or reestablished after July
19 1, 1961, unless the service was actually rendered during time of war.
20 This section shall be administered in a manner consistent with the
21 requirements of the federal uniformed services employment and
22 reemployment rights act.

23 (1) The surviving spouse, domestic partner, or eligible child or
24 children of a member who left the employ of an employer to enter the
25 uniformed services of the United States and died while serving in the
26 uniformed services may, on behalf of the deceased member, apply for
27 retirement system service credit under this subsection up to the date
28 of the member's death in the uniformed services. The department shall
29 establish the deceased member's service credit if the surviving spouse,
30 domestic partner, or eligible child or children:

31 (a) Provides to the director proof of the member's death while
32 serving in the uniformed services;

33 (b) Provides to the director proof of the member's honorable
34 service in the uniformed services prior to the date of death; and

35 (c) Pays the employee contributions required under chapter 41.45
36 RCW within five years of the date of death or prior to the distribution
37 of any benefit, whichever comes first.

1 (2) A member who leaves the employ of an employer to enter the
2 uniformed services of the United States and becomes totally
3 incapacitated for continued employment by an employer while serving in
4 the uniformed services is entitled to retirement system service credit
5 under this subsection up to the date of discharge from the uniformed
6 services if:

7 (a) The member obtains a determination from the director that he or
8 she is totally incapacitated for continued employment due to conditions
9 or events that occurred while serving in the uniformed services;

10 (b) The member provides to the director proof of honorable
11 discharge from the uniformed services; and

12 (c) The member pays the employee contributions required under
13 chapter 41.45 RCW within five years of the director's determination of
14 total disability or prior to the distribution of any benefit, whichever
15 comes first.

16 **Sec. 21.** RCW 41.32.520 and 2003 c 155 s 1 are each amended to read
17 as follows:

18 (1) Except as specified in subsection (3) of this section, upon
19 receipt of proper proofs of death of any member before retirement or
20 before the first installment of his or her retirement allowance shall
21 become due his or her accumulated contributions, less any amount
22 identified as owing to an obligee upon withdrawal of accumulated
23 contributions pursuant to a court order filed under RCW 41.50.670,
24 and/or other benefits payable upon his or her death shall be paid to
25 his or her estate or to such persons, trust, or organization as he or
26 she shall have nominated by written designation duly executed and filed
27 with the department. If a member fails to file a new beneficiary
28 designation subsequent to marriage, divorce, or reestablishment of
29 membership following termination by withdrawal, lapsation, or
30 retirement, payment of his or her accumulated contributions, less any
31 amount identified as owing to an obligee upon withdrawal of accumulated
32 contributions pursuant to a court order filed under RCW 41.50.670,
33 and/or other benefits upon death before retirement shall be made to the
34 surviving spouse or domestic partner, if any; otherwise, to his or her
35 estate. If a member had established ten or more years of Washington
36 membership service credit or was eligible for retirement, the
37 beneficiary or the surviving spouse or domestic partner if otherwise

1 eligible may elect, in lieu of a cash refund of the member's
2 accumulated contributions, the following survivor benefit plan
3 actuarially reduced, except under subsection (4) of this section, by
4 the amount of any lump sum benefit identified as owing to an obligee
5 upon withdrawal of accumulated contributions pursuant to a court order
6 filed under RCW 41.50.670:

7 (a) A widow (~~((\oplus))~~), widower, or domestic partner, without a child
8 or children under eighteen years of age, may elect a monthly payment of
9 fifty dollars to become effective at age fifty, provided the member had
10 fifteen or more years of Washington membership service credit. A
11 benefit paid under this subsection (1)(a) shall terminate at the
12 marriage of the beneficiary.

13 (b) The beneficiary, if a surviving spouse, domestic partner, or a
14 dependent (as that term is used in computing the dependent exemption
15 for federal internal revenue purposes) may elect to receive a joint and
16 one hundred percent retirement allowance under RCW 41.32.530.

17 (i) In the case of a dependent child the allowance shall continue
18 until attainment of majority or so long as the department judges that
19 the circumstances which created his or her dependent status continue to
20 exist. In any case, if at the time dependent status ceases, an amount
21 equal to the amount of accumulated contributions of the deceased member
22 has not been paid to the beneficiary, the remainder shall then be paid
23 in a lump sum to the beneficiary.

24 (ii) If at the time of death, the member was not then qualified for
25 a service retirement allowance, the benefit shall be based upon the
26 actuarial equivalent of the sum necessary to pay the accrued regular
27 retirement allowance commencing when the deceased member would have
28 first qualified for a service retirement allowance.

29 (2) If no qualified beneficiary survives a member, at his or her
30 death his or her accumulated contributions, less any amount identified
31 as owing to an obligee upon withdrawal of accumulated contributions
32 pursuant to a court order filed under RCW 41.50.670, shall be paid to
33 his or her estate, or his or her dependents may qualify for survivor
34 benefits under benefit plan (1)(b) in lieu of a cash refund of the
35 members accumulated contributions in the following order: Widow
36 (~~((\oplus))~~), widower, or domestic partner; guardian of a dependent child or
37 children under age eighteen(~~((τ))~~)i or dependent parent or parents.

1 (3) If a member dies within sixty days following application for
2 disability retirement under RCW 41.32.550, the beneficiary named in the
3 application may elect to receive the benefit provided by:

4 (a) This section; or

5 (b) RCW 41.32.550, according to the option chosen under RCW
6 41.32.530 in the disability application.

7 (4) The retirement allowance of a member who is killed in the
8 course of employment, as determined by the director of the department
9 of labor and industries, is not subject to an actuarial reduction. The
10 member's retirement allowance is computed under RCW 41.32.480.

11 **Sec. 22.** RCW 41.32.785 and 2002 c 158 s 9 are each amended to read
12 as follows:

13 (1) Upon retirement for service as prescribed in RCW 41.32.765 or
14 retirement for disability under RCW 41.32.790, a member shall elect to
15 have the retirement allowance paid pursuant to the following options,
16 calculated so as to be actuarially equivalent to each other.

17 (a) Standard allowance. A member electing this option shall
18 receive a retirement allowance payable throughout such member's life.
19 However, if the retiree dies before the total of the retirement
20 allowance paid to such retiree equals the amount of such retiree's
21 accumulated contributions at the time of retirement, then the balance
22 shall be paid to the member's estate, or such person or persons, trust,
23 or organization as the retiree shall have nominated by written
24 designation duly executed and filed with the department; or if there be
25 no such designated person or persons still living at the time of the
26 retiree's death, then to the surviving spouse or domestic partner; or
27 if there be neither such designated person or persons still living at
28 the time of death nor a surviving spouse or domestic partner, then to
29 the retiree's legal representative.

30 (b) The department shall adopt rules that allow a member to select
31 a retirement option that pays the member a reduced retirement allowance
32 and upon death, such portion of the member's reduced retirement
33 allowance as the department by rule designates shall be continued
34 throughout the life of and paid to a designated person. Such person
35 shall be nominated by the member by written designation duly executed
36 and filed with the department at the time of retirement. The options

1 adopted by the department shall include, but are not limited to, a
2 joint and one hundred percent survivor option and a joint and fifty
3 percent survivor option.

4 (2)(a) A member, if married, must provide the written consent of
5 his or her spouse to the option selected under this section, except as
6 provided in (b) of this subsection. If a member is married and both
7 the member and member's spouse do not give written consent to an option
8 under this section, the department will pay the member a joint and
9 fifty percent survivor benefit and record the member's spouse as the
10 beneficiary. Such benefit shall be calculated to be actuarially
11 equivalent to the benefit options available under subsection (1) of
12 this section unless spousal consent is not required as provided in (b)
13 of this subsection.

14 (b) If a copy of a dissolution order designating a survivor
15 beneficiary under RCW 41.50.790 has been filed with the department at
16 least thirty days prior to a member's retirement:

17 (i) The department shall honor the designation as if made by the
18 member under subsection (1) of this section; and

19 (ii) The spousal consent provisions of (a) of this subsection do
20 not apply.

21 (3)(a) Any member who retired before January 1, 1996, and who
22 elected to receive a reduced retirement allowance under subsection
23 (1)(b) or (2) of this section is entitled to receive a retirement
24 allowance adjusted in accordance with (b) of this subsection, if they
25 meet the following conditions:

26 (i) The retiree's designated beneficiary predeceases or has
27 predeceased the retiree; and

28 (ii) The retiree provides to the department proper proof of the
29 designated beneficiary's death.

30 (b) The retirement allowance payable to the retiree, as of July 1,
31 1998, or the date of the designated beneficiary's death, whichever
32 comes last, shall be increased by the percentage derived in (c) of this
33 subsection.

34 (c) The percentage increase shall be derived by the following:

35 (i) One hundred percent multiplied by the result of (c)(ii) of this
36 subsection converted to a percent;

37 (ii) Subtract one from the reciprocal of the appropriate joint and
38 survivor option factor;

1 (iii) The joint and survivor option factor shall be from the table
2 in effect as of July 1, 1998.

3 (d) The adjustment under (b) of this subsection shall accrue from
4 the beginning of the month following the date of the designated
5 beneficiary's death or from July 1, 1998, whichever comes last.

6 (4) No later than July 1, 2001, the department shall adopt rules
7 that allow a member additional actuarially equivalent survivor benefit
8 options, and shall include, but are not limited to:

9 (a)(i) A retired member who retired without designating a survivor
10 beneficiary shall have the opportunity to designate their spouse from
11 a postretirement marriage or a domestic partner from a postretirement
12 domestic partnership as a survivor during a one-year period beginning
13 one year after the date of the postretirement marriage or
14 postretirement domestic partnership provided the retirement allowance
15 payable to the retiree is not subject to periodic payments pursuant to
16 a property division obligation as provided for in RCW 41.50.670.

17 (ii) A member who entered into a postretirement marriage or
18 postretirement domestic partnership prior to the effective date of the
19 rules adopted pursuant to this subsection and satisfies the conditions
20 of (a)(i) of this subsection shall have one year to designate their
21 spouse or domestic partner as a survivor beneficiary following the
22 adoption of the rules, however in the case of a domestic partnership,
23 the member must make the designation by the effective date of this
24 section.

25 (b) A retired member who elected to receive a reduced retirement
26 allowance under this section and designated a nonspouse as survivor
27 beneficiary shall have the opportunity to remove the survivor
28 designation and have their future benefit adjusted.

29 (c) The department may make an additional charge, if necessary, to
30 ensure that the benefits provided under this subsection remain
31 actuarially equivalent.

32 (5) No later than July 1, 2003, the department shall adopt rules to
33 permit:

34 (a) A court-approved property settlement incident to a court decree
35 of dissolution made before retirement to provide that benefits payable
36 to a member who meets the length of service requirements of RCW
37 41.32.815 and the member's divorcing spouse be divided into two
38 separate benefits payable over the life of each spouse.

1 The member shall have available the benefit options of subsection
2 (1) of this section upon retirement, and if remarried at the time of
3 retirement remains subject to the spousal consent requirements of
4 subsection (2) of this section. Any reductions of the member's benefit
5 subsequent to the division into two separate benefits shall be made
6 solely to the separate benefit of the member.

7 The nonmember ex spouse shall be eligible to commence receiving
8 their separate benefit upon reaching the age provided in RCW
9 41.32.765(1) and after filing a written application with the
10 department.

11 (b) A court-approved property settlement incident to a court decree
12 of dissolution made after retirement may only divide the benefit into
13 two separate benefits payable over the life of each spouse if the
14 nonmember ex spouse was selected as a survivor beneficiary at
15 retirement.

16 The retired member may later choose the survivor benefit options
17 available in subsection (4) of this section. Any actuarial reductions
18 subsequent to the division into two separate benefits shall be made
19 solely to the separate benefit of the member.

20 Both the retired member and the nonmember divorced spouse shall be
21 eligible to commence receiving their separate benefits upon filing a
22 copy of the dissolution order with the department in accordance with
23 RCW 41.50.670.

24 (c) The department may make an additional charge or adjustment if
25 necessary to ensure that the separate benefits provided under this
26 subsection are actuarially equivalent to the benefits payable prior to
27 the decree of dissolution.

28 **Sec. 23.** RCW 41.32.790 and 1995 c 144 s 15 are each amended to
29 read as follows:

30 (1) A member of the retirement system who becomes totally
31 incapacitated for continued employment by an employer as determined by
32 the department upon recommendation of the department shall be eligible
33 to receive an allowance under the provisions of RCW 41.32.755 through
34 41.32.825. The member shall receive a monthly disability allowance
35 computed as provided for in RCW 41.32.760 and shall have the allowance
36 actuarially reduced to reflect the difference in the number of years
37 between age at disability and the attainment of age sixty-five.

1 Any member who receives an allowance under the provisions of this
2 section shall be subject to comprehensive medical examinations as
3 required by the department. If medical examinations reveal that a
4 member has recovered from the incapacitating disability and the member
5 is offered reemployment by an employer at a comparable compensation,
6 the member shall cease to be eligible for the allowance.

7 (2)(a) If the recipient of a monthly retirement allowance under
8 this section dies before the total of the retirement allowance paid to
9 the recipient equals the amount of the accumulated contributions at the
10 date of retirement, then the balance shall be paid to the member's
11 estate, or the person or persons, trust, or organization as the
12 recipient has nominated by written designation duly executed and filed
13 with the director, or, if there is no designated person or persons
14 still living at the time of the recipient's death, then to the
15 surviving spouse or domestic partner, or, if there is neither a
16 designated person or persons still living at the time of his or her
17 death nor a surviving spouse or domestic partner, then to his or her
18 legal representative.

19 (b) If a recipient of a monthly retirement allowance under this
20 section died before April 27, 1989, and before the total of the
21 retirement allowance paid to the recipient equaled the amount of his or
22 her accumulated contributions at the date of retirement, then the
23 department shall pay the balance of the accumulated contributions to
24 the member's surviving spouse or, if there is no surviving spouse, then
25 in equal shares to the member's children. If there is no surviving
26 spouse or children, the department shall retain the contributions.

27 **Sec. 24.** RCW 41.32.805 and 2003 c 155 s 2 are each amended to read
28 as follows:

29 (1) Except as provided in RCW 11.07.010, if a member or a vested
30 member who has not completed at least ten years of service dies, the
31 amount of the accumulated contributions standing to such member's
32 credit in the retirement system, less any amount identified as owing to
33 an obligee upon withdrawal of accumulated contributions pursuant to a
34 court order filed under RCW 41.50.670, at the time of such member's
35 death shall be paid to the member's estate, or such person or persons,
36 trust, or organization as the member shall have nominated by written
37 designation duly executed and filed with the department. If there be

1 no such designated person or persons still living at the time of the
2 member's death, such member's accumulated contributions standing to
3 such member's credit in the retirement system, less any amount
4 identified as owing to an obligee upon withdrawal of accumulated
5 contributions pursuant to a court order filed under RCW 41.50.670,
6 shall be paid to the member's surviving spouse or domestic partner as
7 if in fact such spouse or domestic partner had been nominated by
8 written designation, or if there be no such surviving spouse or
9 domestic partner, then to such member's legal representatives.

10 (2) If a member who is eligible for retirement or a member who has
11 completed at least ten years of service dies, the surviving spouse,
12 domestic partner, or eligible children shall elect to receive either:

13 (a) A retirement allowance computed as provided for in RCW
14 41.32.765, actuarially reduced by the amount of any lump sum benefit
15 identified as owing to an obligee upon withdrawal of accumulated
16 contributions pursuant to a court order filed under RCW 41.50.670 and
17 actuarially adjusted to reflect a joint and one hundred percent
18 survivor option under RCW 41.32.785 and, except under subsection (4) of
19 this section, if the member was not eligible for normal retirement at
20 the date of death a further reduction as described in RCW 41.32.765; if
21 a surviving spouse or domestic partner who is receiving a retirement
22 allowance dies leaving a child or children of the member under the age
23 of majority, then such child or children shall continue to receive an
24 allowance in an amount equal to that which was being received by the
25 surviving spouse or domestic partner, share and share alike, until such
26 child or children reach the age of majority; if there is no surviving
27 spouse or domestic partner eligible to receive an allowance at the time
28 of the member's death, such member's child or children under the age of
29 majority shall receive an allowance share and share alike calculated as
30 herein provided making the assumption that the ages of the spouse or
31 domestic partner and member were equal at the time of the member's
32 death; or

33 (b) The member's accumulated contributions, less any amount
34 identified as owing to an obligee upon withdrawal of accumulated
35 contributions pursuant to a court order filed under RCW 41.50.670.

36 (3) If a member who is eligible for retirement or a member who has
37 completed at least ten years of service dies after October 1, 1977, and
38 is not survived by a spouse, domestic partner, or an eligible child,

1 then the accumulated contributions standing to the member's credit,
2 less any amount identified as owing to an obligee upon withdrawal of
3 accumulated contributions pursuant to a court order filed under RCW
4 41.50.670, shall be paid:

5 (a) To an estate, a person or persons, trust, or organization as
6 the member shall have nominated by written designation duly executed
7 and filed with the department; or

8 (b) If there is no such designated person or persons still living
9 at the time of the member's death, then to the member's legal
10 representatives.

11 (4) A member who is killed in the course of employment, as
12 determined by the director of the department of labor and industries,
13 is not subject to an actuarial reduction under RCW 41.32.765. The
14 member's retirement allowance is computed under RCW 41.32.760.

15 **Sec. 25.** RCW 41.32.810 and 2005 c 64 s 7 are each amended to read
16 as follows:

17 (1) A member who is on a paid leave of absence authorized by a
18 member's employer shall continue to receive service credit as provided
19 for under the provisions of RCW 41.32.755 through 41.32.825.

20 (2) A member who receives compensation from an employer while on an
21 authorized leave of absence to serve as an elected official of a labor
22 organization, and whose employer is reimbursed by the labor
23 organization for the compensation paid to the member during the period
24 of absence, may also be considered to be on a paid leave of absence.
25 This subsection shall only apply if the member's leave of absence is
26 authorized by a collective bargaining agreement that provides that the
27 member retains seniority rights with the employer during the period of
28 leave. The earnable compensation reported for a member who establishes
29 service credit under this subsection may not be greater than the salary
30 paid to the highest paid job class covered by the collective bargaining
31 agreement.

32 (3) Except as specified in subsection (6) of this section, a member
33 shall be eligible to receive a maximum of two years' service credit
34 during a member's entire working career for those periods when a member
35 is on an unpaid leave of absence authorized by an employer. Such
36 credit may be obtained only if the member makes both the employer and

1 member contributions plus interest as determined by the department for
2 the period of the authorized leave of absence within five years of
3 resumption of service or prior to retirement whichever comes sooner.

4 (4) If a member fails to meet the time limitations of subsection
5 (3) of this section, the member may receive a maximum of two years of
6 service credit during a member's working career for those periods when
7 a member is on unpaid leave of absence authorized by an employer. This
8 may be done by paying the amount required under RCW 41.50.165(2) prior
9 to retirement.

10 (5) For the purpose of subsection (3) of this section, the
11 contribution shall not include the contribution for the unfunded
12 supplemental present value as required by RCW 41.32.775. The
13 contributions required shall be based on the average of the member's
14 earnable compensation at both the time the authorized leave of absence
15 was granted and the time the member resumed employment.

16 (6) A member who leaves the employ of an employer to enter the
17 uniformed services of the United States shall be entitled to retirement
18 system service credit for up to five years of military service. This
19 subsection shall be administered in a manner consistent with the
20 requirements of the federal uniformed services employment and
21 reemployment rights act.

22 (a) The member qualifies for service credit under this subsection
23 if:

24 (i) Within ninety days of the member's honorable discharge from the
25 uniformed services of the United States, the member applies for
26 reemployment with the employer who employed the member immediately
27 prior to the member entering the uniformed services; and

28 (ii) The member makes the employee contributions required under RCW
29 41.32.775 within five years of resumption of service or prior to
30 retirement, whichever comes sooner; or

31 (iii) Prior to retirement and not within ninety days of the
32 member's honorable discharge or five years of resumption of service the
33 member pays the amount required under RCW 41.50.165(2).

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
35 or (e)(iii) of this subsection, the department shall establish the
36 member's service credit and shall bill the employer for its
37 contribution required under RCW 41.32.775 for the period of military
38 service, plus interest as determined by the department.

1 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
2 of this subsection shall be based on the compensation the member would
3 have earned if not on leave, or if that cannot be estimated with
4 reasonable certainty, the compensation reported for the member in the
5 year prior to when the member went on military leave.

6 (d) The surviving spouse, domestic partner, or eligible child or
7 children of a member who left the employ of an employer to enter the
8 uniformed services of the United States and died while serving in the
9 uniformed services may, on behalf of the deceased member, apply for
10 retirement system service credit under this subsection up to the date
11 of the member's death in the uniformed services. The department shall
12 establish the deceased member's service credit if the surviving spouse,
13 domestic partner, or eligible child or children:

14 (i) Provides to the director proof of the member's death while
15 serving in the uniformed services;

16 (ii) Provides to the director proof of the member's honorable
17 service in the uniformed services prior to the date of death; and

18 (iii) Pays the employee contributions required under chapter 41.45
19 RCW within five years of the date of death or prior to the distribution
20 of any benefit, whichever comes first.

21 (e) A member who leaves the employ of an employer to enter the
22 uniformed services of the United States and becomes totally
23 incapacitated for continued employment by an employer while serving in
24 the uniformed services is entitled to retirement system service credit
25 under this subsection up to the date of discharge from the uniformed
26 services if:

27 (i) The member obtains a determination from the director that he or
28 she is totally incapacitated for continued employment due to conditions
29 or events that occurred while serving in the uniformed services;

30 (ii) The member provides to the director proof of honorable
31 discharge from the uniformed services; and

32 (iii) The member pays the employee contributions required under
33 chapter 41.45 RCW within five years of the director's determination of
34 total disability or prior to the distribution of any benefit, whichever
35 comes first.

36 **Sec. 26.** RCW 41.32.865 and 2005 c 64 s 8 are each amended to read
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an
4 authorized leave of absence to serve as an elected official of a labor
5 organization, and whose employer is reimbursed by the labor
6 organization for the compensation paid to the member during the period
7 of absence, may also be considered to be on a paid leave of absence.
8 This subsection shall only apply if the member's leave of absence is
9 authorized by a collective bargaining agreement that provides that the
10 member retains seniority rights with the employer during the period of
11 leave. The earnable compensation reported for a member who establishes
12 service credit under this subsection may not be greater than the salary
13 paid to the highest paid job class covered by the collective bargaining
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member
16 shall be eligible to receive a maximum of two years' service credit
17 during a member's entire working career for those periods when a member
18 is on an unpaid leave of absence authorized by an employer. Such
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the
25 member's earnable compensation at both the time the authorized leave of
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the
28 uniformed services of the United States shall be entitled to retirement
29 system service credit for up to five years of military service if
30 within ninety days of the member's honorable discharge from the
31 uniformed services of the United States, the member applies for
32 reemployment with the employer who employed the member immediately
33 prior to the member entering the uniformed services. This subsection
34 shall be administered in a manner consistent with the requirements of
35 the federal uniformed services employment and reemployment rights act.

36 The department shall establish the member's service credit and
37 shall bill the employer for its contribution required under chapter
38 239, Laws of 1995 for the period of military service, plus interest as

1 determined by the department. Service credit under this subsection may
2 be obtained only if the member makes the employee contribution to the
3 defined contribution portion as determined by the department.

4 The contributions required shall be based on the compensation the
5 member would have earned if not on leave, or if that cannot be
6 estimated with reasonable certainty, the compensation reported for the
7 member in the year prior to when the member went on military leave.

8 (a) The surviving spouse, domestic partner, or eligible child or
9 children of a member who left the employ of an employer to enter the
10 uniformed services of the United States and died while serving in the
11 uniformed services may, on behalf of the deceased member, apply for
12 retirement system service credit under this subsection up to the date
13 of the member's death in the uniformed services. The department shall
14 establish the deceased member's service credit if the surviving spouse,
15 domestic partner, or eligible child or children:

16 (i) Provides to the director proof of the member's death while
17 serving in the uniformed services;

18 (ii) Provides to the director proof of the member's honorable
19 service in the uniformed services prior to the date of death; and

20 (iii) Pays the employee contributions required under this
21 subsection within five years of the date of death or prior to the
22 distribution of any benefit, whichever comes first.

23 (b) A member who leaves the employ of an employer to enter the
24 uniformed services of the United States and becomes totally
25 incapacitated for continued employment by an employer while serving in
26 the uniformed services is entitled to retirement system service credit
27 under this subsection up to the date of discharge from the uniformed
28 services if:

29 (i) The member obtains a determination from the director that he or
30 she is totally incapacitated for continued employment due to conditions
31 or events that occurred while serving in the uniformed services;

32 (ii) The member provides to the director proof of honorable
33 discharge from the uniformed services; and

34 (iii) The member pays the employee contributions required under
35 this subsection within five years of the director's determination of
36 total disability or prior to the distribution of any benefit, whichever
37 comes first.

1 **Sec. 27.** RCW 41.32.895 and 2003 c 155 s 3 are each amended to read
2 as follows:

3 (1) If a member dies prior to retirement, the surviving spouse,
4 domestic partner, or eligible child or children shall receive a
5 retirement allowance computed as provided in RCW 41.32.851 actuarially
6 reduced to reflect a joint and one hundred percent survivor option and,
7 except under subsection (2) of this section, if the member was not
8 eligible for normal retirement at the date of death a further reduction
9 as described in RCW 41.32.875.

10 If the surviving spouse or domestic partner who is receiving the
11 retirement allowance dies leaving a child or children under the age of
12 majority, then such child or children shall continue to receive an
13 allowance in an amount equal to that which was being received by the
14 surviving spouse or domestic partner, share and share alike, until such
15 child or children reach the age of majority.

16 If there is no surviving spouse or domestic partner eligible to
17 receive an allowance at the time of the member's death, such member's
18 child or children under the age of majority shall receive an allowance,
19 share and share alike. The allowance shall be calculated with the
20 assumption that the age of the spouse or domestic partner and member
21 were equal at the time of the member's death.

22 (2) A member who is killed in the course of employment, as
23 determined by the director of the department of labor and industries,
24 is not subject to an actuarial reduction under RCW 41.32.875. The
25 member's retirement allowance is computed under RCW 41.32.840.

26 **Sec. 28.** RCW 41.35.010 and 2003 c 157 s 1 are each amended to read
27 as follows:

28 The definitions in this section apply throughout this chapter,
29 unless the context clearly requires otherwise.

30 (1) "Retirement system" means the Washington school employees'
31 retirement system provided for in this chapter.

32 (2) "Department" means the department of retirement systems created
33 in chapter 41.50 RCW.

34 (3) "State treasurer" means the treasurer of the state of
35 Washington.

36 (4) "Employer," for plan 2 and plan 3 members, means a school
37 district or an educational service district.

1 (5) "Member" means any employee included in the membership of the
2 retirement system, as provided for in RCW 41.35.030.

3 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means
4 salaries or wages earned by a member during a payroll period for
5 personal services, including overtime payments, and shall include wages
6 and salaries deferred under provisions established pursuant to sections
7 403(b), 414(h), and 457 of the United States internal revenue code, but
8 shall exclude nonmoney maintenance compensation and lump sum or other
9 payments for deferred annual sick leave, unused accumulated vacation,
10 unused accumulated annual leave, or any form of severance pay.

11 (b) "Compensation earnable" for plan 2 and plan 3 members also
12 includes the following actual or imputed payments, which are not paid
13 for personal services:

14 (i) Retroactive payments to an individual by an employer on
15 reinstatement of the employee in a position, or payments by an employer
16 to an individual in lieu of reinstatement, which are awarded or granted
17 as the equivalent of the salary or wage which the individual would have
18 earned during a payroll period shall be considered compensation
19 earnable to the extent provided in this subsection, and the individual
20 shall receive the equivalent service credit;

21 (ii) In any year in which a member serves in the legislature, the
22 member shall have the option of having such member's compensation
23 earnable be the greater of:

24 (A) The compensation earnable the member would have received had
25 such member not served in the legislature; or

26 (B) Such member's actual compensation earnable received for
27 nonlegislative public employment and legislative service combined. Any
28 additional contributions to the retirement system required because
29 compensation earnable under (b)(ii)(A) of this subsection is greater
30 than compensation earnable under this (b)(ii)(B) of this subsection
31 shall be paid by the member for both member and employer contributions;

32 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
33 and 72.09.240;

34 (iv) Compensation that a member would have received but for a
35 disability occurring in the line of duty only as authorized by RCW
36 41.40.038;

37 (v) Compensation that a member receives due to participation in the

1 leave sharing program only as authorized by RCW 41.04.650 through
2 41.04.670; and

3 (vi) Compensation that a member receives for being in standby
4 status. For the purposes of this section, a member is in standby
5 status when not being paid for time actually worked and the employer
6 requires the member to be prepared to report immediately for work, if
7 the need arises, although the need may not arise.

8 (7) "Service" for plan 2 and plan 3 members means periods of
9 employment by a member in an eligible position or positions for one or
10 more employers for which compensation earnable is paid. Compensation
11 earnable earned for ninety or more hours in any calendar month shall
12 constitute one service credit month except as provided in RCW
13 41.35.180. Compensation earnable earned for at least seventy hours but
14 less than ninety hours in any calendar month shall constitute one-half
15 service credit month of service. Compensation earnable earned for less
16 than seventy hours in any calendar month shall constitute one-quarter
17 service credit month of service. Time spent in standby status, whether
18 compensated or not, is not service.

19 Any fraction of a year of service shall be taken into account in
20 the computation of such retirement allowance or benefits.

21 (a) Service in any state elective position shall be deemed to be
22 full-time service.

23 (b) A member shall receive a total of not more than twelve service
24 credit months of service for such calendar year. If an individual is
25 employed in an eligible position by one or more employers the
26 individual shall receive no more than one service credit month during
27 any calendar month in which multiple service for ninety or more hours
28 is rendered.

29 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW
30 28A.400.300 is equal to two service credit months. Use of less than
31 forty-five days of sick leave is creditable as allowed under this
32 subsection as follows:

33 (i) Less than eleven days equals one-quarter service credit month;

34 (ii) Eleven or more days but less than twenty-two days equals one-
35 half service credit month;

36 (iii) Twenty-two days equals one service credit month;

37 (iv) More than twenty-two days but less than thirty-three days
38 equals one and one-quarter service credit month; and

- 1 (v) Thirty-three or more days but less than forty-five days equals
2 one and one-half service credit month.
- 3 (8) "Service credit year" means an accumulation of months of
4 service credit which is equal to one when divided by twelve.
- 5 (9) "Service credit month" means a month or an accumulation of
6 months of service credit which is equal to one.
- 7 (10) "Membership service" means all service rendered as a member.
- 8 (11) "Beneficiary" for plan 2 and plan 3 members means any person
9 in receipt of a retirement allowance or other benefit provided by this
10 chapter resulting from service rendered to an employer by another
11 person.
- 12 (12) "Regular interest" means such rate as the director may
13 determine.
- 14 (13) "Accumulated contributions" means the sum of all contributions
15 standing to the credit of a member in the member's individual account,
16 including any amount paid under RCW 41.50.165(2), together with the
17 regular interest thereon.
- 18 (14) "Average final compensation" for plan 2 and plan 3 members
19 means the member's average compensation earnable of the highest
20 consecutive sixty months of service credit months prior to such
21 member's retirement, termination, or death. Periods constituting
22 authorized leaves of absence may not be used in the calculation of
23 average final compensation except under RCW 41.40.710(2).
- 24 (15) "Final compensation" means the annual rate of compensation
25 earnable by a member at the time of termination of employment.
- 26 (16) "Annuity" means payments for life derived from accumulated
27 contributions of a member. All annuities shall be paid in monthly
28 installments.
- 29 (17) "Pension" means payments for life derived from contributions
30 made by the employer. All pensions shall be paid in monthly
31 installments.
- 32 (18) "Retirement allowance" for plan 2 and plan 3 members means
33 monthly payments to a retiree or beneficiary as provided in this
34 chapter.
- 35 (19) "Employee" or "employed" means a person who is providing
36 services for compensation to an employer, unless the person is free
37 from the employer's direction and control over the performance of work.

1 The department shall adopt rules and interpret this subsection
2 consistent with common law.

3 (20) "Actuarial equivalent" means a benefit of equal value when
4 computed upon the basis of such mortality and other tables as may be
5 adopted by the director.

6 (21) "Retirement" means withdrawal from active service with a
7 retirement allowance as provided by this chapter.

8 (22) "Eligible position" means any position that, as defined by the
9 employer, normally requires five or more months of service a year for
10 which regular compensation for at least seventy hours is earned by the
11 occupant thereof. For purposes of this chapter an employer shall not
12 define "position" in such a manner that an employee's monthly work for
13 that employer is divided into more than one position.

14 (23) "Ineligible position" means any position which does not
15 conform with the requirements set forth in subsection (22) of this
16 section.

17 (24) "Leave of absence" means the period of time a member is
18 authorized by the employer to be absent from service without being
19 separated from membership.

20 (25) "Retiree" means any person who has begun accruing a retirement
21 allowance or other benefit provided by this chapter resulting from
22 service rendered to an employer while a member.

23 (26) "Director" means the director of the department.

24 (27) "State elective position" means any position held by any
25 person elected or appointed to statewide office or elected or appointed
26 as a member of the legislature.

27 (28) "State actuary" or "actuary" means the person appointed
28 pursuant to RCW 44.44.010(2).

29 (29) "Plan 2" means the Washington school employees' retirement
30 system plan 2 providing the benefits and funding provisions covering
31 persons who first became members of the public employees' retirement
32 system on and after October 1, 1977, and transferred to the Washington
33 school employees' retirement system under RCW 41.40.750.

34 (30) "Plan 3" means the Washington school employees' retirement
35 system plan 3 providing the benefits and funding provisions covering
36 persons who first became members of the system on and after September
37 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

1 (31) "Index" means, for any calendar year, that year's annual
2 average consumer price index, Seattle, Washington area, for urban wage
3 earners and clerical workers, all items, compiled by the bureau of
4 labor statistics, United States department of labor.

5 (32) "Index A" means the index for the year prior to the
6 determination of a postretirement adjustment.

7 (33) "Index B" means the index for the year prior to index A.

8 (34) "Adjustment ratio" means the value of index A divided by index
9 B.

10 (35) "Separation from service" occurs when a person has terminated
11 all employment with an employer.

12 (36) "Member account" or "member's account" for purposes of plan 3
13 means the sum of the contributions and earnings on behalf of the member
14 in the defined contribution portion of plan 3.

15 (37) "Classified employee" means an employee of a school district
16 or an educational service district who is not eligible for membership
17 in the teachers' retirement system established under chapter 41.32 RCW.

18 (38) "Substitute employee" means a classified employee who is
19 employed by an employer exclusively as a substitute for an absent
20 employee.

21 (39) "Domestic partner" has the definition in RCW 41.40.010.

22 **Sec. 29.** RCW 41.35.115 and 2003 c 402 s 3 are each amended to read
23 as follows:

24 (1) A one hundred fifty thousand dollar death benefit shall be paid
25 to the member's estate, or such person or persons, trust or
26 organization as the member has nominated by written designation duly
27 executed and filed with the department. If no such designated person
28 or persons are still living at the time of the member's death, the
29 member's death benefit shall be paid to the member's surviving spouse
30 or domestic partner as if in fact the spouse or domestic partner had
31 been nominated by written designation, or if there is no surviving
32 spouse or domestic partner, then to the member's legal representatives.

33 (2) The benefit under this section shall be paid only where death
34 occurs as a result of injuries sustained in the course of employment.
35 The determination of eligibility for the benefit shall be made
36 consistent with Title 51 RCW by the department of labor and industries.

1 The department of labor and industries shall notify the department of
2 retirement systems by order under RCW 51.52.050.

3 **Sec. 30.** RCW 41.35.220 and 2002 c 158 s 11 are each amended to
4 read as follows:

5 (1) Upon retirement for service as prescribed in RCW 41.35.420 or
6 41.35.680 or retirement for disability under RCW 41.35.440 or
7 41.35.690, a member shall elect to have the retirement allowance paid
8 pursuant to one of the following options, calculated so as to be
9 actuarially equivalent to each other.

10 (a) Standard allowance. A member electing this option shall
11 receive a retirement allowance payable throughout such member's life.

12 (i) For members of plan 2, if the retiree dies before the total of
13 the retirement allowance paid to such retiree equals the amount of such
14 retiree's accumulated contributions at the time of retirement, then the
15 balance shall be paid to the member's estate, or such person or
16 persons, trust, or organization as the retiree shall have nominated by
17 written designation duly executed and filed with the department; or if
18 there be no such designated person or persons still living at the time
19 of the retiree's death, then to the surviving spouse or domestic
20 partner; or if there be neither such designated person or persons still
21 living at the time of death nor a surviving spouse or domestic partner,
22 then to the retiree's legal representative.

23 (ii) For members of plan 3, upon the death of the retired member,
24 the member's benefits shall cease.

25 (b) The department shall adopt rules that allow a member to select
26 a retirement option that pays the member a reduced retirement allowance
27 and upon death, such portion of the member's reduced retirement
28 allowance as the department by rule designates shall be continued
29 throughout the life of and paid to a person nominated by the member by
30 written designation duly executed and filed with the department at the
31 time of retirement. The options adopted by the department shall
32 include, but are not limited to, a joint and one hundred percent
33 survivor option and a joint and fifty percent survivor option.

34 (2)(a) A member, if married, must provide the written consent of
35 his or her spouse to the option selected under this section, except as
36 provided in (b) of this subsection. If a member is married and both
37 the member and the member's spouse do not give written consent to an

1 option under this section, the department shall pay a joint and fifty
2 percent survivor benefit calculated to be actuarially equivalent to the
3 benefit options available under subsection (1) of this section unless
4 spousal consent is not required as provided in (b) of this subsection.

5 (b) If a copy of a dissolution order designating a survivor
6 beneficiary under RCW 41.50.790 has been filed with the department at
7 least thirty days prior to a member's retirement:

8 (i) The department shall honor the designation as if made by the
9 member under subsection (1) of this section; and

10 (ii) The spousal consent provisions of (a) of this subsection do
11 not apply.

12 (3) No later than July 1, 2001, the department shall adopt rules
13 that allow a member additional actuarially equivalent survivor benefit
14 options, and shall include, but are not limited to:

15 (a)(i) A retired member who retired without designating a survivor
16 beneficiary shall have the opportunity to designate their spouse from
17 a postretirement marriage or domestic partner from a postretirement
18 domestic partnership as a survivor during a one-year period beginning
19 one year after the date of the postretirement marriage or
20 postretirement domestic partnership provided the retirement allowance
21 payable to the retiree is not subject to periodic payments pursuant to
22 a property division obligation as provided for in RCW 41.50.670.

23 (ii) A member who entered into a postretirement marriage or
24 postretirement domestic partnership prior to the effective date of the
25 rules adopted pursuant to this subsection and satisfies the conditions
26 of (a)(i) of this subsection shall have one year to designate their
27 spouse or domestic partner as a survivor beneficiary following the
28 adoption of the rules, however in the case of a domestic partnership,
29 the member must make the designation by the effective date of this
30 section.

31 (b) A retired member who elected to receive a reduced retirement
32 allowance under this section and designated a nonspouse as survivor
33 beneficiary shall have the opportunity to remove the survivor
34 designation and have their future benefit adjusted.

35 (c) The department may make an additional charge, if necessary, to
36 ensure that the benefits provided under this subsection remain
37 actuarially equivalent.

1 (4) No later than July 1, 2003, the department shall adopt rules to
2 permit:

3 (a) A court-approved property settlement incident to a court decree
4 of dissolution made before retirement to provide that benefits payable
5 to a member of plan 2 who meets the length of service requirements of
6 RCW 41.35.420, or a member of plan 3 who meets the length of service
7 requirements of RCW 41.35.680(1), and the member's divorcing spouse be
8 divided into two separate benefits payable over the life of each
9 spouse.

10 The member shall have available the benefit options of subsection
11 (1) of this section upon retirement, and if remarried at the time of
12 retirement remains subject to the spousal consent requirements of
13 subsection (2) of this section. Any reductions of the member's benefit
14 subsequent to the division into two separate benefits shall be made
15 solely to the separate benefit of the member.

16 The nonmember ex spouse shall be eligible to commence receiving
17 their separate benefit upon reaching the ages provided in RCW
18 41.35.420(1) for members of plan 2, or RCW 41.35.680(1) for members of
19 plan 3, and after filing a written application with the department.

20 (b) A court-approved property settlement incident to a court decree
21 of dissolution made after retirement may only divide the benefit into
22 two separate benefits payable over the life of each spouse if the
23 nonmember ex spouse was selected as a survivor beneficiary at
24 retirement.

25 The retired member may later choose the survivor benefit options
26 available in subsection (3) of this section. Any actuarial reductions
27 subsequent to the division into two separate benefits shall be made
28 solely to the separate benefit of the member.

29 Both the retired member and the nonmember divorced spouse shall be
30 eligible to commence receiving their separate benefits upon filing a
31 copy of the dissolution order with the department in accordance with
32 RCW 41.50.670.

33 (c) Any benefit distributed pursuant to chapter 41.31A RCW after
34 the date of the dissolution order creating separate benefits for a
35 member and nonmember ex spouse shall be paid solely to the member.

36 (d) The department may make an additional charge or adjustment if
37 necessary to ensure that the separate benefits provided under this

1 subsection are actuarially equivalent to the benefits payable prior to
2 the decree of dissolution.

3 **Sec. 31.** RCW 41.35.440 and 1998 c 341 s 105 are each amended to
4 read as follows:

5 (1) A member of the retirement system who becomes totally
6 incapacitated for continued employment by an employer as determined by
7 the department upon recommendation of the department shall be eligible
8 to receive an allowance under the provisions of RCW 41.35.400 through
9 41.35.599. The member shall receive a monthly disability allowance
10 computed as provided for in RCW 41.35.400 and shall have this allowance
11 actuarially reduced to reflect the difference in the number of years
12 between age at disability and the attainment of age sixty-five.

13 Any member who receives an allowance under the provisions of this
14 section shall be subject to comprehensive medical examinations as
15 required by the department. If these medical examinations reveal that
16 a member has recovered from the incapacitating disability and the
17 member is offered reemployment by an employer at a comparable
18 compensation, the member shall cease to be eligible for the allowance.

19 (2) If the recipient of a monthly retirement allowance under this
20 section dies before the total of the retirement allowance paid to the
21 recipient equals the amount of the accumulated contributions at the
22 date of retirement, then the balance shall be paid to the member's
23 estate, or the person or persons, trust, or organization as the
24 recipient has nominated by written designation duly executed and filed
25 with the director, or, if there is no designated person or persons
26 still living at the time of the recipient's death, then to the
27 surviving spouse or domestic partner, or, if there is no designated
28 person or persons still living at the time of his or her death nor a
29 surviving spouse or domestic partner, then to his or her legal
30 representative.

31 **Sec. 32.** RCW 41.35.460 and 2003 c 155 s 4 are each amended to read
32 as follows:

33 (1) Except as provided in RCW 11.07.010, if a member or a vested
34 member who has not completed at least ten years of service dies, the
35 amount of the accumulated contributions standing to such member's
36 credit in the retirement system at the time of such member's death,

1 less any amount identified as owing to an obligee upon withdrawal of
2 accumulated contributions pursuant to a court order filed under RCW
3 41.50.670, shall be paid to the member's estate, or such person or
4 persons, trust, or organization as the member shall have nominated by
5 written designation duly executed and filed with the department. If
6 there be no such designated person or persons still living at the time
7 of the member's death, such member's accumulated contributions standing
8 to such member's credit in the retirement system, less any amount
9 identified as owing to an obligee upon withdrawal of accumulated
10 contributions pursuant to a court order filed under RCW 41.50.670,
11 shall be paid to the member's surviving spouse or domestic partner as
12 if in fact such spouse or domestic partner had been nominated by
13 written designation, or if there be no such surviving spouse or
14 domestic partner, then to such member's legal representatives.

15 (2) If a member who is eligible for retirement or a member who has
16 completed at least ten years of service dies, the surviving spouse,
17 domestic partner, or eligible child or children shall elect to receive
18 either:

19 (a) A retirement allowance computed as provided for in RCW
20 41.35.420, actuarially reduced by the amount of any lump sum benefit
21 identified as owing to an obligee upon withdrawal of accumulated
22 contributions pursuant to a court order filed under RCW 41.50.670 and
23 actuarially adjusted to reflect a joint and one hundred percent
24 survivor option under RCW 41.35.220 and, except under subsection (4) of
25 this section, if the member was not eligible for normal retirement at
26 the date of death a further reduction as described in RCW 41.35.420; if
27 a surviving spouse or domestic partner who is receiving a retirement
28 allowance dies leaving a child or children of the member under the age
29 of majority, then such child or children shall continue to receive an
30 allowance in an amount equal to that which was being received by the
31 surviving spouse or domestic partner, share and share alike, until such
32 child or children reach the age of majority; if there is no surviving
33 spouse or domestic partner eligible to receive an allowance at the time
34 of the member's death, such member's child or children under the age of
35 majority shall receive an allowance, share and share alike, calculated
36 as herein provided making the assumption that the ages of the spouse or
37 domestic partner and member were equal at the time of the member's
38 death; or

1 (b) The member's accumulated contributions, less any amount
2 identified as owing to an obligee upon withdrawal of accumulated
3 contributions pursuant to a court order filed under RCW 41.50.670.

4 (3) If a member who is eligible for retirement or a member who has
5 completed at least ten years of service dies and is not survived by a
6 spouse, domestic partner, or an eligible child, then the accumulated
7 contributions standing to the member's credit, less any amount
8 identified as owing to an obligee upon withdrawal of accumulated
9 contributions pursuant to a court order filed under RCW 41.50.670,
10 shall be paid:

11 (a) To a person or persons, estate, trust, or organization as the
12 member shall have nominated by written designation duly executed and
13 filed with the department; or

14 (b) If there is no such designated person or persons still living
15 at the time of the member's death, then to the member's legal
16 representatives.

17 (4) A member who is killed in the course of employment, as
18 determined by the director of the department of labor and industries,
19 is not subject to an actuarial reduction under RCW 41.35.420. The
20 member's retirement allowance is computed under RCW 41.35.400.

21 **Sec. 33.** RCW 41.35.470 and 2005 c 64 s 4 are each amended to read
22 as follows:

23 (1) A member who is on a paid leave of absence authorized by a
24 member's employer shall continue to receive service credit as provided
25 for under the provisions of RCW 41.35.400 through 41.35.599.

26 (2) A member who receives compensation from an employer while on an
27 authorized leave of absence to serve as an elected official of a labor
28 organization, and whose employer is reimbursed by the labor
29 organization for the compensation paid to the member during the period
30 of absence, may also be considered to be on a paid leave of absence.
31 This subsection shall only apply if the member's leave of absence is
32 authorized by a collective bargaining agreement that provides that the
33 member retains seniority rights with the employer during the period of
34 leave. The compensation earnable reported for a member who establishes
35 service credit under this subsection may not be greater than the salary
36 paid to the highest paid job class covered by the collective bargaining
37 agreement.

1 (3) Except as specified in subsection (4) of this section, a member
2 shall be eligible to receive a maximum of two years' service credit
3 during a member's entire working career for those periods when a member
4 is on an unpaid leave of absence authorized by an employer. Such
5 credit may be obtained only if:

6 (a) The member makes both the plan 2 employer and member
7 contributions plus interest as determined by the department for the
8 period of the authorized leave of absence within five years of
9 resumption of service or prior to retirement whichever comes sooner; or

10 (b) If not within five years of resumption of service but prior to
11 retirement, pay the amount required under RCW 41.50.165(2).

12 The contributions required under (a) of this subsection shall be
13 based on the average of the member's compensation earnable at both the
14 time the authorized leave of absence was granted and the time the
15 member resumed employment.

16 (4) A member who leaves the employ of an employer to enter the
17 uniformed services of the United States shall be entitled to retirement
18 system service credit for up to five years of military service. This
19 subsection shall be administered in a manner consistent with the
20 requirements of the federal uniformed services employment and
21 reemployment rights act.

22 (a) The member qualifies for service credit under this subsection
23 if:

24 (i) Within ninety days of the member's honorable discharge from the
25 uniformed services of the United States, the member applies for
26 reemployment with the employer who employed the member immediately
27 prior to the member entering the uniformed services; and

28 (ii) The member makes the employee contributions required under RCW
29 41.35.430 within five years of resumption of service or prior to
30 retirement, whichever comes sooner; or

31 (iii) Prior to retirement and not within ninety days of the
32 member's honorable discharge or five years of resumption of service the
33 member pays the amount required under RCW 41.50.165(2).

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
35 or (e)(iii) of this subsection, the department shall establish the
36 member's service credit and shall bill the employer for its
37 contribution required under RCW 41.35.430 for the period of military
38 service, plus interest as determined by the department.

1 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
2 of this subsection shall be based on the compensation the member would
3 have earned if not on leave, or if that cannot be estimated with
4 reasonable certainty, the compensation reported for the member in the
5 year prior to when the member went on military leave.

6 (d) The surviving spouse, domestic partner, or eligible child or
7 children of a member who left the employ of an employer to enter the
8 uniformed services of the United States and died while serving in the
9 uniformed services may, on behalf of the deceased member, apply for
10 retirement system service credit under this subsection up to the date
11 of the member's death in the uniformed services. The department shall
12 establish the deceased member's service credit if the surviving spouse,
13 domestic partner, or eligible child or children:

14 (i) Provide(~~(s)~~) to the director proof of the member's death while
15 serving in the uniformed services;

16 (ii) Provide(~~(s)~~) to the director proof of the member's honorable
17 service in the uniformed services prior to the date of death; and

18 (iii) Pay(~~(s)~~) the employee contributions required under chapter
19 41.45 RCW within five years of the date of death or prior to the
20 distribution of any benefit, whichever comes first.

21 (e) A member who leaves the employ of an employer to enter the
22 uniformed services of the United States and becomes totally
23 incapacitated for continued employment by an employer while serving in
24 the uniformed services is entitled to retirement system service credit
25 under this subsection up to the date of discharge from the uniformed
26 services if:

27 (i) The member obtains a determination from the director that he or
28 she is totally incapacitated for continued employment due to conditions
29 or events that occurred while serving in the uniformed services;

30 (ii) The member provides to the director proof of honorable
31 discharge from the uniformed services; and

32 (iii) The member pays the employee contributions required under
33 chapter 41.45 RCW within five years of the director's determination of
34 total disability or prior to the distribution of any benefit, whichever
35 comes first.

36 **Sec. 34.** RCW 41.35.650 and 2005 c 64 s 5 are each amended to read
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an
4 authorized leave of absence to serve as an elected official of a labor
5 organization, and whose employer is reimbursed by the labor
6 organization for the compensation paid to the member during the period
7 of absence, may also be considered to be on a paid leave of absence.
8 This subsection shall only apply if the member's leave of absence is
9 authorized by a collective bargaining agreement that provides that the
10 member retains seniority rights with the employer during the period of
11 leave. The earnable compensation reported for a member who establishes
12 service credit under this subsection may not be greater than the salary
13 paid to the highest paid job class covered by the collective bargaining
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member
16 shall be eligible to receive a maximum of two years' service credit
17 during a member's entire working career for those periods when a member
18 is on an unpaid leave of absence authorized by an employer. Such
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the
25 member's earnable compensation at both the time the authorized leave of
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the
28 uniformed services of the United States shall be entitled to retirement
29 system service credit for up to five years of military service if
30 within ninety days of the member's honorable discharge from the
31 uniformed services of the United States, the member applies for
32 reemployment with the employer who employed the member immediately
33 prior to the member entering the uniformed services. This subsection
34 shall be administered in a manner consistent with the requirements of
35 the federal uniformed services employment and reemployment rights act.

36 The department shall establish the member's service credit and
37 shall bill the employer for its contribution required under RCW
38 41.35.720 for the period of military service, plus interest as

1 determined by the department. Service credit under this subsection may
2 be obtained only if the member makes the employee contribution to the
3 defined contribution portion as determined by the department.

4 The contributions required shall be based on the compensation the
5 member would have earned if not on leave, or if that cannot be
6 estimated with reasonable certainty, the compensation reported for the
7 member in the year prior to when the member went on military leave.

8 (a) The surviving spouse, domestic partner, or eligible child or
9 children of a member who left the employ of an employer to enter the
10 uniformed services of the United States and died while serving in the
11 uniformed services may, on behalf of the deceased member, apply for
12 retirement system service credit under this subsection up to the date
13 of the member's death in the uniformed services. The department shall
14 establish the deceased member's service credit if the surviving spouse,
15 domestic partner, or eligible child or children:

16 (i) Provides to the director proof of the member's death while
17 serving in the uniformed services;

18 (ii) Provides to the director proof of the member's honorable
19 service in the uniformed services prior to the date of death; and

20 (iii) Pays the employee contributions required under this
21 subsection within five years of the date of death or prior to the
22 distribution of any benefit, whichever comes first.

23 (b) A member who leaves the employ of an employer to enter the
24 uniformed services of the United States and becomes totally
25 incapacitated for continued employment by an employer while serving in
26 the uniformed services is entitled to retirement system service credit
27 under this subsection up to the date of discharge from the uniformed
28 services if:

29 (i) The member obtains a determination from the director that he or
30 she is totally incapacitated for continued employment due to conditions
31 or events that occurred while serving in the uniformed services;

32 (ii) The member provides to the director proof of honorable
33 discharge from the uniformed services; and

34 (iii) The member pays the employee contributions required under
35 this subsection within five years of the director's determination of
36 total disability or prior to the distribution of any benefit, whichever
37 comes first.

1 **Sec. 35.** RCW 41.35.710 and 2003 c 155 s 5 are each amended to read
2 as follows:

3 (1) If a member dies prior to retirement, the surviving spouse,
4 domestic partner, or eligible child or children shall receive a
5 retirement allowance computed as provided in RCW 41.35.620 actuarially
6 reduced to reflect a joint and one hundred percent survivor option and,
7 except under subsection (2) of this section, if the member was not
8 eligible for normal retirement at the date of death a further reduction
9 as described in RCW 41.35.680.

10 If the surviving spouse or domestic partner who is receiving the
11 retirement allowance dies leaving a child or children under the age of
12 majority, then such child or children shall continue to receive an
13 allowance in an amount equal to that which was being received by the
14 surviving spouse or domestic partner, share and share alike, until such
15 child or children reach the age of majority.

16 If there is no surviving spouse or domestic partner eligible to
17 receive an allowance at the time of the member's death, such member's
18 child or children under the age of majority shall receive an allowance,
19 share and share alike. The allowance shall be calculated with the
20 assumption that the age of the spouse or domestic partner and member
21 were equal at the time of the member's death.

22 (2) A member who is killed in the course of employment, as
23 determined by the director of the department of labor and industries,
24 is not subject to an actuarial reduction under RCW 41.35.680. The
25 member's retirement allowance is computed under RCW 41.35.620.

26 **Sec. 36.** RCW 41.37.010 and 2006 c 309 s 2 are each amended to read
27 as follows:

28 The definitions in this section apply throughout this chapter,
29 unless the context clearly requires otherwise.

30 (1) "Retirement system" means the Washington public safety
31 employees' retirement system provided for in this chapter.

32 (2) "Department" means the department of retirement systems created
33 in chapter 41.50 RCW.

34 (3) "State treasurer" means the treasurer of the state of
35 Washington.

36 (4) "Employer" means the Washington state department of
37 corrections, the Washington state parks and recreation commission, the

1 Washington state gambling commission, the Washington state patrol, and
2 the Washington state liquor control board; any county corrections
3 department; any city corrections department not covered under chapter
4 41.28 RCW; or other employers employing statewide elective officials.

5 (5) "Member" means any employee employed by an employer on a full-
6 time basis:

7 (a) Who is in a position that requires completion of a certified
8 criminal justice training course and is authorized by their employer to
9 arrest, conduct criminal investigations, enforce the criminal laws of
10 the state of Washington, and carry a firearm as part of the job;

11 (b) Whose primary responsibility is to ensure the custody and
12 security of incarcerated or probationary individuals as a corrections
13 officer, probation officer, or jailer;

14 (c) Who is a limited authority Washington peace officer, as defined
15 in RCW 10.93.020, for an employer; or

16 (d) Whose primary responsibility is to supervise members eligible
17 under this subsection.

18 (6)(a) "Compensation earnable" for members, means salaries or wages
19 earned by a member during a payroll period for personal services,
20 including overtime payments, and shall include wages and salaries
21 deferred under provisions established pursuant to sections 403(b),
22 414(h), and 457 of the United States internal revenue code, but shall
23 exclude nonmoney maintenance compensation and lump sum or other
24 payments for deferred annual sick leave, unused accumulated vacation,
25 unused accumulated annual leave, or any form of severance pay.

26 (b) "Compensation earnable" for members also includes the following
27 actual or imputed payments, which are not paid for personal services:

28 (i) Retroactive payments to an individual by an employer on
29 reinstatement of the employee in a position, or payments by an employer
30 to an individual in lieu of reinstatement, which are awarded or granted
31 as the equivalent of the salary or wage which the individual would have
32 earned during a payroll period shall be considered compensation
33 earnable to the extent provided in this subsection, and the individual
34 shall receive the equivalent service credit;

35 (ii) In any year in which a member serves in the legislature, the
36 member shall have the option of having such member's compensation
37 earnable be the greater of:

1 (A) The compensation earnable the member would have received had
2 such member not served in the legislature; or

3 (B) Such member's actual compensation earnable received for
4 nonlegislative public employment and legislative service combined. Any
5 additional contributions to the retirement system required because
6 compensation earnable under (b)(ii)(A) of this subsection is greater
7 than compensation earnable under (b)(ii)(B) of this subsection shall be
8 paid by the member for both member and employer contributions;

9 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
10 and 72.09.240;

11 (iv) Compensation that a member would have received but for a
12 disability occurring in the line of duty only as authorized by RCW
13 41.37.070;

14 (v) Compensation that a member receives due to participation in the
15 leave sharing program only as authorized by RCW 41.04.650 through
16 41.04.670; and

17 (vi) Compensation that a member receives for being in standby
18 status. For the purposes of this section, a member is in standby
19 status when not being paid for time actually worked and the employer
20 requires the member to be prepared to report immediately for work, if
21 the need arises, although the need may not arise.

22 (7) "Service" means periods of employment by a member on or after
23 July 1, 2006, for one or more employers for which compensation earnable
24 is paid. Compensation earnable earned for ninety or more hours in any
25 calendar month shall constitute one service credit month. Compensation
26 earnable earned for at least seventy hours but less than ninety hours
27 in any calendar month shall constitute one-half service credit month of
28 service. Compensation earnable earned for less than seventy hours in
29 any calendar month shall constitute one-quarter service credit month of
30 service. Time spent in standby status, whether compensated or not, is
31 not service.

32 Any fraction of a year of service shall be taken into account in
33 the computation of such retirement allowance or benefits.

34 (a) Service in any state elective position shall be deemed to be
35 full-time service.

36 (b) A member shall receive a total of not more than twelve service
37 credit months of service for such calendar year. If an individual is
38 employed in an eligible position by one or more employers the

1 individual shall receive no more than one service credit month during
2 any calendar month in which multiple service for ninety or more hours
3 is rendered.

4 (8) "Service credit year" means an accumulation of months of
5 service credit which is equal to one when divided by twelve.

6 (9) "Service credit month" means a month or an accumulation of
7 months of service credit which is equal to one.

8 (10) "Membership service" means all service rendered as a member.

9 (11) "Beneficiary" means any person in receipt of a retirement
10 allowance or other benefit provided by this chapter resulting from
11 service rendered to an employer by another person.

12 (12) "Regular interest" means such rate as the director may
13 determine.

14 (13) "Accumulated contributions" means the sum of all contributions
15 standing to the credit of a member in the member's individual account,
16 including any amount paid under RCW 41.50.165(2), together with the
17 regular interest thereon.

18 (14) "Average final compensation" means the member's average
19 compensation earnable of the highest consecutive sixty months of
20 service credit months prior to such member's retirement, termination,
21 or death. Periods constituting authorized leaves of absence may not be
22 used in the calculation of average final compensation except under RCW
23 41.37.290.

24 (15) "Final compensation" means the annual rate of compensation
25 earnable by a member at the time of termination of employment.

26 (16) "Annuity" means payments for life derived from accumulated
27 contributions of a member. All annuities shall be paid in monthly
28 installments.

29 (17) "Pension" means payments for life derived from contributions
30 made by the employer. All pensions shall be paid in monthly
31 installments.

32 (18) "Retirement allowance" means monthly payments to a retiree or
33 beneficiary as provided in this chapter.

34 (19) "Employee" or "employed" means a person who is providing
35 services for compensation to an employer, unless the person is free
36 from the employer's direction and control over the performance of work.
37 The department shall adopt rules and interpret this subsection
38 consistent with common law.

1 (20) "Actuarial equivalent" means a benefit of equal value when
2 computed upon the basis of such mortality and other tables as may be
3 adopted by the director.

4 (21) "Retirement" means withdrawal from active service with a
5 retirement allowance as provided by this chapter.

6 (22) "Eligible position" means any permanent, full-time, fully
7 compensated position included in subsection (5) of this section.

8 (23) "Ineligible position" means any position which does not
9 conform with the requirements set forth in subsection (22) of this
10 section.

11 (24) "Leave of absence" means the period of time a member is
12 authorized by the employer to be absent from service without being
13 separated from membership.

14 (25) "Retiree" means any person who has begun accruing a retirement
15 allowance or other benefit provided by this chapter resulting from
16 service rendered to an employer while a member.

17 (26) "Director" means the director of the department.

18 (27) "State elective position" means any position held by any
19 person elected or appointed to statewide office or elected or appointed
20 as a member of the legislature.

21 (28) "State actuary" or "actuary" means the person appointed
22 pursuant to RCW 44.44.010(2).

23 (29) "Plan" means the Washington public safety employees'
24 retirement system plan 2.

25 (30) "Index" means, for any calendar year, that year's annual
26 average consumer price index, Seattle, Washington area, for urban wage
27 earners and clerical workers, all items, compiled by the bureau of
28 labor statistics, United States department of labor.

29 (31) "Index A" means the index for the year prior to the
30 determination of a postretirement adjustment.

31 (32) "Index B" means the index for the year prior to index A.

32 (33) "Adjustment ratio" means the value of index A divided by index
33 B.

34 (34) "Separation from service" occurs when a person has terminated
35 all employment with an employer.

36 (35) "Domestic partner" has the definition in RCW 41.40.010.

1 **Sec. 37.** RCW 41.37.170 and 2004 c 242 s 23 are each amended to
2 read as follows:

3 (1) Upon retirement for service as prescribed in RCW 41.37.210 or
4 retirement for disability under RCW 41.37.230, a member shall elect to
5 have the retirement allowance paid pursuant to one of the following
6 options, calculated so as to be actuarially equivalent to each other.

7 (a) Standard allowance. A member electing this option shall
8 receive a retirement allowance payable throughout the member's life.
9 If the retiree dies before the total of the retirement allowance paid
10 to the retiree equals the amount of the retiree's accumulated
11 contributions at the time of retirement, then the balance shall be paid
12 to the member's estate, or the person or persons, trust, or
13 organization the retiree nominated by written designation duly executed
14 and filed with the department; or if there is no designated person or
15 persons still living at the time of the retiree's death, then to the
16 surviving spouse or domestic partner; or if there is neither a
17 designated person or persons still living at the time of death nor a
18 surviving spouse or domestic partner, then to the retiree's legal
19 representative.

20 (b) The department shall adopt rules that allow a member to select
21 a retirement option that pays the member a reduced retirement allowance
22 and upon death, the portion of the member's reduced retirement
23 allowance as the department by rule designates shall be continued
24 throughout the life of and paid to a person nominated by the member by
25 written designation duly executed and filed with the department at the
26 time of retirement. The options adopted by the department shall
27 include, but are not limited to, a joint and one hundred percent
28 survivor option and a joint and fifty percent survivor option.

29 (2)(a) A member, if married, must provide the written consent of
30 his or her spouse to the option selected under this section, except as
31 provided in (b) of this subsection. If a member is married and both
32 the member and the member's spouse do not give written consent to an
33 option under this section, the department shall pay a joint and fifty
34 percent survivor benefit calculated to be actuarially equivalent to the
35 benefit options available under subsection (1) of this section unless
36 spousal consent is not required as provided in (b) of this subsection.

37 (b) If a copy of a dissolution order designating a survivor

1 beneficiary under RCW 41.50.790 has been filed with the department at
2 least thirty days prior to a member's retirement:

3 (i) The department shall honor the designation as if made by the
4 member under subsection (1) of this section; and

5 (ii) The spousal consent provisions of (a) of this subsection do
6 not apply.

7 (3) The department shall adopt rules that allow a member additional
8 actuarially equivalent survivor benefit options, and shall include, but
9 are not limited to:

10 (a)(i) A retired member who retired without designating a survivor
11 beneficiary shall have the opportunity to designate their spouse from
12 a postretirement marriage or a domestic partner from a postretirement
13 domestic partnership as a survivor during a one-year period beginning
14 one year after the date of the postretirement marriage or
15 postretirement domestic partnership provided the retirement allowance
16 payable to the retiree is not subject to periodic payments pursuant to
17 a property division obligation as provided for in RCW 41.50.670.

18 (ii) A member who entered into a postretirement marriage or
19 postretirement domestic partnership prior to the effective date of the
20 rules adopted pursuant to this subsection and satisfies the conditions
21 of (a)(i) of this subsection shall have one year to designate their
22 spouse or domestic partner as a survivor beneficiary following the
23 adoption of the rules, however in the case of a domestic partnership,
24 the member must make the designation by the effective date of this
25 section.

26 (b) A retired member who elected to receive a reduced retirement
27 allowance under this section and designated a nonspouse as survivor
28 beneficiary shall have the opportunity to remove the survivor
29 designation and have their future benefit adjusted.

30 (c) The department may make an additional charge, if necessary, to
31 ensure that the benefits provided under this subsection remain
32 actuarially equivalent.

33 (4) The department shall adopt rules to permit:

34 (a) A court-approved property settlement incident to a court decree
35 of dissolution made before retirement to provide that benefits payable
36 to a member who meets the length of service requirements of RCW
37 41.37.210 and the member's divorcing spouse be divided into two
38 separate benefits payable over the life of each spouse.

1 The member shall have available the benefit options of subsection
2 (1) of this section upon retirement, and if remarried at the time of
3 retirement remains subject to the spousal consent requirements of
4 subsection (2) of this section. Any reductions of the member's benefit
5 subsequent to the division into two separate benefits shall be made
6 solely to the separate benefit of the member.

7 The nonmember ex spouse shall be eligible to commence receiving
8 their separate benefit upon reaching the age provided in RCW
9 41.37.210(1) and after filing a written application with the
10 department.

11 (b) A court-approved property settlement incident to a court decree
12 of dissolution made after retirement may only divide the benefit into
13 two separate benefits payable over the life of each spouse if the
14 nonmember ex spouse was selected as a survivor beneficiary at
15 retirement.

16 The retired member may later choose the survivor benefit options
17 available in subsection (3) of this section. Any actuarial reductions
18 subsequent to the division into two separate benefits shall be made
19 solely to the separate benefit of the member.

20 Both the retired member and the nonmember divorced spouse shall be
21 eligible to commence receiving their separate benefits upon filing a
22 copy of the dissolution order with the department in accordance with
23 RCW 41.50.670.

24 (c) The department may make an additional charge or adjustment if
25 necessary to ensure that the separate benefits provided under this
26 subsection are actuarially equivalent to the benefits payable prior to
27 the decree of dissolution.

28 **Sec. 38.** RCW 41.37.250 and 2005 c 327 s 7 are each amended to read
29 as follows:

30 (1) Except as provided in RCW 11.07.010, if a member or a vested
31 member who has not completed at least ten years of service dies, the
32 amount of the accumulated contributions standing to that member's
33 credit in the retirement system at the time of the member's death, less
34 any amount identified as owing to an obligee upon withdrawal of
35 accumulated contributions pursuant to a court order filed under RCW
36 41.50.670, shall be paid to the member's estate, or the person or
37 persons, trust, or organization as the member shall have nominated by

1 written designation duly executed and filed with the department. If
2 there is no designated person or persons still living at the time of
3 the member's death, the member's accumulated contributions standing to
4 the member's credit in the retirement system, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under RCW 41.50.670,
7 shall be paid to the member's surviving spouse or domestic partner as
8 if in fact that spouse or domestic partner had been nominated by
9 written designation, or if there is no surviving spouse or domestic
10 partner, then to the member's legal representatives.

11 (2) If a member who is eligible for retirement or a member who has
12 completed at least ten years of service dies, the surviving spouse,
13 domestic partner, or eligible child or children shall elect to receive
14 either:

15 (a) A retirement allowance computed as provided for in RCW
16 41.37.210, actuarially reduced by the amount of any lump sum benefit
17 identified as owing to an obligee upon withdrawal of accumulated
18 contributions pursuant to a court order filed under RCW 41.50.670 and
19 actuarially adjusted to reflect a joint and one hundred percent
20 survivor option under RCW 41.37.170 and, except under subsection (4) of
21 this section, if the member was not eligible for normal retirement at
22 the date of death a further reduction as described in RCW 41.37.210; if
23 a surviving spouse or domestic partner who is receiving a retirement
24 allowance dies leaving a child or children of the member under the age
25 of majority, then the child or children shall continue to receive an
26 allowance in an amount equal to that which was being received by the
27 surviving spouse or domestic partner, share and share alike, until the
28 child or children reach the age of majority; if there is no surviving
29 spouse or domestic partner eligible to receive an allowance at the time
30 of the member's death, the member's child or children under the age of
31 majority shall receive an allowance, share and share alike, calculated
32 under this section making the assumption that the ages of the spouse or
33 domestic partner and member were equal at the time of the member's
34 death; or

35 (b) The member's accumulated contributions, less any amount
36 identified as owing to an obligee upon withdrawal of accumulated
37 contributions pursuant to a court order filed under RCW 41.50.670.

1 (3) If a member who is eligible for retirement or a member who has
2 completed at least ten years of service dies and is not survived by a
3 spouse, domestic partner, or an eligible child, then the accumulated
4 contributions standing to the member's credit, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under RCW 41.50.670,
7 shall be paid:

8 (a) To a person or persons, estate, trust, or organization as the
9 member shall have nominated by written designation duly executed and
10 filed with the department; or

11 (b) If there is no designated person or persons still living at the
12 time of the member's death, then to the member's legal representatives.

13 (4) A member who is killed in the course of employment, as
14 determined by the director of the department of labor and industries,
15 is not subject to reduction under RCW 41.37.210. The member's
16 retirement allowance is computed under RCW 41.37.190.

17 **Sec. 39.** RCW 41.37.260 and 2005 c 64 s 11 are each amended to read
18 as follows:

19 (1) A member who is on a paid leave of absence authorized by a
20 member's employer shall continue to receive service credit as provided
21 for under RCW 41.37.190 through 41.37.290.

22 (2) A member who receives compensation from an employer while on an
23 authorized leave of absence to serve as an elected official of a labor
24 organization, and whose employer is reimbursed by the labor
25 organization for the compensation paid to the member during the period
26 of absence, may also be considered to be on a paid leave of absence.
27 This subsection shall only apply if the member's leave of absence is
28 authorized by a collective bargaining agreement that provides that the
29 member retains seniority rights with the employer during the period of
30 leave. The compensation earnable reported for a member who establishes
31 service credit under this subsection may not be greater than the salary
32 paid to the highest paid job class covered by the collective bargaining
33 agreement.

34 (3) Except as specified in subsection (4) of this section, a member
35 shall be eligible to receive a maximum of two years' service credit
36 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. This
2 credit may be obtained only if:

3 (a) The member makes both the employer and member contributions
4 plus interest as determined by the department for the period of the
5 authorized leave of absence within five years of resumption of service
6 or prior to retirement whichever comes sooner; or

7 (b) If not within five years of resumption of service but prior to
8 retirement, pay the amount required under RCW 41.50.165(2).

9 The contributions required under (a) of this subsection shall be
10 based on the average of the member's compensation earnable at both the
11 time the authorized leave of absence was granted and the time the
12 member resumed employment.

13 (4) A member who leaves the employ of an employer to enter the
14 uniformed services of the United States shall be entitled to retirement
15 system service credit for up to five years of military service. This
16 subsection shall be administered in a manner consistent with the
17 requirements of the federal uniformed services employment and
18 reemployment rights act.

19 (a) The member qualifies for service credit under this subsection
20 if:

21 (i) Within ninety days of the member's honorable discharge from the
22 uniformed services of the United States, the member applies for
23 reemployment with the employer who employed the member immediately
24 prior to the member entering the uniformed services; and

25 (ii) The member makes the employee contributions required under RCW
26 41.37.220 within five years of resumption of service or prior to
27 retirement, whichever comes sooner; or

28 (iii) Prior to retirement and not within ninety days of the
29 member's honorable discharge or five years of resumption of service the
30 member pays the amount required under RCW 41.50.165(2).

31 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
32 or (e)(iii) of this subsection, the department shall establish the
33 member's service credit and shall bill the employer for its
34 contribution required under RCW 41.37.220 for the period of military
35 service, plus interest as determined by the department.

36 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
37 of this subsection shall be based on the compensation the member would

1 have earned if not on leave, or if that cannot be estimated with
2 reasonable certainty, the compensation reported for the member in the
3 year prior to when the member went on military leave.

4 (d) The surviving spouse, domestic partner, or eligible child or
5 children of a member who left the employ of an employer to enter the
6 uniformed services of the United States and died while serving in the
7 uniformed services may, on behalf of the deceased member, apply for
8 retirement system service credit under this subsection up to the date
9 of the member's death in the uniformed services. The department shall
10 establish the deceased member's service credit if the surviving spouse,
11 domestic partner, or eligible child or children:

12 (i) Provides to the director proof of the member's death while
13 serving in the uniformed services;

14 (ii) Provides to the director proof of the member's honorable
15 service in the uniformed services prior to the date of death; and

16 (iii) Pays the employee contributions required under chapter 41.45
17 RCW within five years of the date of death or prior to the distribution
18 of any benefit, whichever comes first.

19 (e) A member who leaves the employ of an employer to enter the
20 uniformed services of the United States and becomes totally
21 incapacitated for continued employment by an employer while serving in
22 the uniformed services is entitled to retirement system service credit
23 under this subsection up to the date of discharge from the uniformed
24 services if:

25 (i) The member obtains a determination from the director that he or
26 she is totally incapacitated for continued employment due to conditions
27 or events that occurred while serving in the uniformed services;

28 (ii) The member provides to the director proof of honorable
29 discharge from the uniformed services; and

30 (iii) The member pays the employee contributions required under
31 chapter 41.45 RCW within five years of the director's determination of
32 total disability or prior to the distribution of any benefit, whichever
33 comes first.

34 **Sec. 40.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to
35 read as follows:

36 As used in this chapter, unless a different meaning is plainly
37 required by the context:

1 (1) "Retirement system" means the public employees' retirement
2 system provided for in this chapter.

3 (2) "Department" means the department of retirement systems created
4 in chapter 41.50 RCW.

5 (3) "State treasurer" means the treasurer of the state of
6 Washington.

7 (4)(a) "Employer" for plan 1 members, means every branch,
8 department, agency, commission, board, and office of the state, any
9 political subdivision or association of political subdivisions of the
10 state admitted into the retirement system, and legal entities
11 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
12 term shall also include any labor guild, association, or organization
13 the membership of a local lodge or division of which is comprised of at
14 least forty percent employees of an employer (other than such labor
15 guild, association, or organization) within this chapter. The term may
16 also include any city of the first class that has its own retirement
17 system.

18 (b) "Employer" for plan 2 and plan 3 members, means every branch,
19 department, agency, commission, board, and office of the state, and any
20 political subdivision and municipal corporation of the state admitted
21 into the retirement system, including public agencies created pursuant
22 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August
23 31, 2000, school districts and educational service districts will no
24 longer be employers for the public employees' retirement system plan 2.

25 (5) "Member" means any employee included in the membership of the
26 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
27 does not prohibit a person otherwise eligible for membership in the
28 retirement system from establishing such membership effective when he
29 or she first entered an eligible position.

30 (6) "Original member" of this retirement system means:

31 (a) Any person who became a member of the system prior to April 1,
32 1949;

33 (b) Any person who becomes a member through the admission of an
34 employer into the retirement system on and after April 1, 1949, and
35 prior to April 1, 1951;

36 (c) Any person who first becomes a member by securing employment
37 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to
2 October 1, 1947;

3 (d) Any person who first becomes a member through the admission of
4 an employer into the retirement system on or after April 1, 1951,
5 provided, such person has been in the regular employ of the employer
6 for at least six months of the twelve-month period preceding the said
7 admission date;

8 (e) Any member who has restored all contributions that may have
9 been withdrawn as provided by RCW 41.40.150 and who on the effective
10 date of the individual's retirement becomes entitled to be credited
11 with ten years or more of membership service except that the provisions
12 relating to the minimum amount of retirement allowance for the member
13 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
14 apply to the member;

15 (f) Any member who has been a contributor under the system for two
16 or more years and who has restored all contributions that may have been
17 withdrawn as provided by RCW 41.40.150 and who on the effective date of
18 the individual's retirement has rendered five or more years of service
19 for the state or any political subdivision prior to the time of the
20 admission of the employer into the system; except that the provisions
21 relating to the minimum amount of retirement allowance for the member
22 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
23 apply to the member.

24 (7) "New member" means a person who becomes a member on or after
25 April 1, 1949, except as otherwise provided in this section.

26 (8)(a) "Compensation earnable" for plan 1 members, means salaries
27 or wages earned during a payroll period for personal services and where
28 the compensation is not all paid in money, maintenance compensation
29 shall be included upon the basis of the schedules established by the
30 member's employer.

31 (i) "Compensation earnable" for plan 1 members also includes the
32 following actual or imputed payments, which are not paid for personal
33 services:

34 (A) Retroactive payments to an individual by an employer on
35 reinstatement of the employee in a position, or payments by an employer
36 to an individual in lieu of reinstatement in a position which are
37 awarded or granted as the equivalent of the salary or wage which the

1 individual would have earned during a payroll period shall be
2 considered compensation earnable and the individual shall receive the
3 equivalent service credit;

4 (B) If a leave of absence is taken by an individual for the purpose
5 of serving in the state legislature, the salary which would have been
6 received for the position from which the leave of absence was taken,
7 shall be considered as compensation earnable if the employee's
8 contribution is paid by the employee and the employer's contribution is
9 paid by the employer or employee;

10 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
11 72.09.240;

12 (D) Compensation that a member would have received but for a
13 disability occurring in the line of duty only as authorized by RCW
14 41.40.038;

15 (E) Compensation that a member receives due to participation in the
16 leave sharing program only as authorized by RCW 41.04.650 through
17 41.04.670; and

18 (F) Compensation that a member receives for being in standby
19 status. For the purposes of this section, a member is in standby
20 status when not being paid for time actually worked and the employer
21 requires the member to be prepared to report immediately for work, if
22 the need arises, although the need may not arise.

23 (ii) "Compensation earnable" does not include:

24 (A) Remuneration for unused sick leave authorized under RCW
25 41.04.340, 28A.400.210, or 28A.310.490;

26 (B) Remuneration for unused annual leave in excess of thirty days
27 as authorized by RCW 43.01.044 and 43.01.041.

28 (b) "Compensation earnable" for plan 2 and plan 3 members, means
29 salaries or wages earned by a member during a payroll period for
30 personal services, including overtime payments, and shall include wages
31 and salaries deferred under provisions established pursuant to sections
32 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
33 shall exclude nonmoney maintenance compensation and lump sum or other
34 payments for deferred annual sick leave, unused accumulated vacation,
35 unused accumulated annual leave, or any form of severance pay.

36 "Compensation earnable" for plan 2 and plan 3 members also includes
37 the following actual or imputed payments, which are not paid for
38 personal services:

1 (i) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wage which the
5 individual would have earned during a payroll period shall be
6 considered compensation earnable to the extent provided above, and the
7 individual shall receive the equivalent service credit;

8 (ii) In any year in which a member serves in the legislature, the
9 member shall have the option of having such member's compensation
10 earnable be the greater of:

11 (A) The compensation earnable the member would have received had
12 such member not served in the legislature; or

13 (B) Such member's actual compensation earnable received for
14 nonlegislative public employment and legislative service combined. Any
15 additional contributions to the retirement system required because
16 compensation earnable under (b)(ii)(A) of this subsection is greater
17 than compensation earnable under (b)(ii)(B) of this subsection shall be
18 paid by the member for both member and employer contributions;

19 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
20 and 72.09.240;

21 (iv) Compensation that a member would have received but for a
22 disability occurring in the line of duty only as authorized by RCW
23 41.40.038;

24 (v) Compensation that a member receives due to participation in the
25 leave sharing program only as authorized by RCW 41.04.650 through
26 41.04.670; and

27 (vi) Compensation that a member receives for being in standby
28 status. For the purposes of this section, a member is in standby
29 status when not being paid for time actually worked and the employer
30 requires the member to be prepared to report immediately for work, if
31 the need arises, although the need may not arise.

32 (9)(a) "Service" for plan 1 members, except as provided in RCW
33 41.40.088, means periods of employment in an eligible position or
34 positions for one or more employers rendered to any employer for which
35 compensation is paid, and includes time spent in office as an elected
36 or appointed official of an employer. Compensation earnable earned in
37 full time work for seventy hours or more in any given calendar month
38 shall constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for less than seventy hours in
2 any calendar month shall constitute one-quarter service credit month of
3 service except as provided in RCW 41.40.088. Only service credit
4 months and one-quarter service credit months shall be counted in the
5 computation of any retirement allowance or other benefit provided for
6 in this chapter. Any fraction of a year of service shall be taken into
7 account in the computation of such retirement allowance or benefits.
8 Time spent in standby status, whether compensated or not, is not
9 service.

10 (i) Service by a state employee officially assigned by the state on
11 a temporary basis to assist another public agency, shall be considered
12 as service as a state employee: PROVIDED, That service to any other
13 public agency shall not be considered service as a state employee if
14 such service has been used to establish benefits in any other public
15 retirement system.

16 (ii) An individual shall receive no more than a total of twelve
17 service credit months of service during any calendar year. If an
18 individual is employed in an eligible position by one or more employers
19 the individual shall receive no more than one service credit month
20 during any calendar month in which multiple service for seventy or more
21 hours is rendered.

22 (iii) A school district employee may count up to forty-five days of
23 sick leave as creditable service solely for the purpose of determining
24 eligibility to retire under RCW 41.40.180 as authorized by RCW
25 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW
26 28A.400.300 is equal to two service credit months. Use of less than
27 forty-five days of sick leave is creditable as allowed under this
28 subsection as follows:

29 (A) Less than twenty-two days equals one-quarter service credit
30 month;

31 (B) Twenty-two days equals one service credit month;

32 (C) More than twenty-two days but less than forty-five days equals
33 one and one-quarter service credit month.

34 (b) "Service" for plan 2 and plan 3 members, means periods of
35 employment by a member in an eligible position or positions for one or
36 more employers for which compensation earnable is paid. Compensation
37 earnable earned for ninety or more hours in any calendar month shall
38 constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for at least seventy hours but
2 less than ninety hours in any calendar month shall constitute one-half
3 service credit month of service. Compensation earnable earned for less
4 than seventy hours in any calendar month shall constitute one-quarter
5 service credit month of service. Time spent in standby status, whether
6 compensated or not, is not service.

7 Any fraction of a year of service shall be taken into account in
8 the computation of such retirement allowance or benefits.

9 (i) Service in any state elective position shall be deemed to be
10 full time service, except that persons serving in state elective
11 positions who are members of the Washington school employees'
12 retirement system, teachers' retirement system, public safety
13 employees' retirement system, or law enforcement officers' and fire
14 fighters' retirement system at the time of election or appointment to
15 such position may elect to continue membership in the Washington school
16 employees' retirement system, teachers' retirement system, public
17 safety employees' retirement system, or law enforcement officers' and
18 fire fighters' retirement system.

19 (ii) A member shall receive a total of not more than twelve service
20 credit months of service for such calendar year. If an individual is
21 employed in an eligible position by one or more employers the
22 individual shall receive no more than one service credit month during
23 any calendar month in which multiple service for ninety or more hours
24 is rendered.

25 (iii) Up to forty-five days of sick leave may be creditable as
26 service solely for the purpose of determining eligibility to retire
27 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
28 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal
29 to two service credit months. Use of less than forty-five days of sick
30 leave is creditable as allowed under this subsection as follows:

31 (A) Less than eleven days equals one-quarter service credit month;

32 (B) Eleven or more days but less than twenty-two days equals one-
33 half service credit month;

34 (C) Twenty-two days equals one service credit month;

35 (D) More than twenty-two days but less than thirty-three days
36 equals one and one-quarter service credit month;

37 (E) Thirty-three or more days but less than forty-five days equals
38 one and one-half service credit month.

1 (10) "Service credit year" means an accumulation of months of
2 service credit which is equal to one when divided by twelve.

3 (11) "Service credit month" means a month or an accumulation of
4 months of service credit which is equal to one.

5 (12) "Prior service" means all service of an original member
6 rendered to any employer prior to October 1, 1947.

7 (13) "Membership service" means:

8 (a) All service rendered, as a member, after October 1, 1947;

9 (b) All service after October 1, 1947, to any employer prior to the
10 time of its admission into the retirement system for which member and
11 employer contributions, plus interest as required by RCW 41.50.125,
12 have been paid under RCW 41.40.056 or 41.40.057;

13 (c) Service not to exceed six consecutive months of probationary
14 service rendered after April 1, 1949, and prior to becoming a member,
15 in the case of any member, upon payment in full by such member of the
16 total amount of the employer's contribution to the retirement fund
17 which would have been required under the law in effect when such
18 probationary service was rendered if the member had been a member
19 during such period, except that the amount of the employer's
20 contribution shall be calculated by the director based on the first
21 month's compensation earnable as a member;

22 (d) Service not to exceed six consecutive months of probationary
23 service, rendered after October 1, 1947, and before April 1, 1949, and
24 prior to becoming a member, in the case of any member, upon payment in
25 full by such member of five percent of such member's salary during said
26 period of probationary service, except that the amount of the
27 employer's contribution shall be calculated by the director based on
28 the first month's compensation earnable as a member.

29 (14)(a) "Beneficiary" for plan 1 members, means any person in
30 receipt of a retirement allowance, pension or other benefit provided by
31 this chapter.

32 (b) "Beneficiary" for plan 2 and plan 3 members, means any person
33 in receipt of a retirement allowance or other benefit provided by this
34 chapter resulting from service rendered to an employer by another
35 person.

36 (15) "Regular interest" means such rate as the director may
37 determine.

1 (16) "Accumulated contributions" means the sum of all contributions
2 standing to the credit of a member in the member's individual account,
3 including any amount paid under RCW 41.50.165(2), together with the
4 regular interest thereon.

5 (17)(a) "Average final compensation" for plan 1 members, means the
6 annual average of the greatest compensation earnable by a member during
7 any consecutive two year period of service credit months for which
8 service credit is allowed; or if the member has less than two years of
9 service credit months then the annual average compensation earnable
10 during the total years of service for which service credit is allowed.

11 (b) "Average final compensation" for plan 2 and plan 3 members,
12 means the member's average compensation earnable of the highest
13 consecutive sixty months of service credit months prior to such
14 member's retirement, termination, or death. Periods constituting
15 authorized leaves of absence may not be used in the calculation of
16 average final compensation except under RCW 41.40.710(2).

17 (18) "Final compensation" means the annual rate of compensation
18 earnable by a member at the time of termination of employment.

19 (19) "Annuity" means payments for life derived from accumulated
20 contributions of a member. All annuities shall be paid in monthly
21 installments.

22 (20) "Pension" means payments for life derived from contributions
23 made by the employer. All pensions shall be paid in monthly
24 installments.

25 (21) "Retirement allowance" means the sum of the annuity and the
26 pension.

27 (22) "Employee" or "employed" means a person who is providing
28 services for compensation to an employer, unless the person is free
29 from the employer's direction and control over the performance of work.
30 The department shall adopt rules and interpret this subsection
31 consistent with common law.

32 (23) "Actuarial equivalent" means a benefit of equal value when
33 computed upon the basis of such mortality and other tables as may be
34 adopted by the director.

35 (24) "Retirement" means withdrawal from active service with a
36 retirement allowance as provided by this chapter.

37 (25) "Eligible position" means:

1 (a) Any position that, as defined by the employer, normally
2 requires five or more months of service a year for which regular
3 compensation for at least seventy hours is earned by the occupant
4 thereof. For purposes of this chapter an employer shall not define
5 "position" in such a manner that an employee's monthly work for that
6 employer is divided into more than one position;

7 (b) Any position occupied by an elected official or person
8 appointed directly by the governor, or appointed by the chief justice
9 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which
10 compensation is paid.

11 (26) "Ineligible position" means any position which does not
12 conform with the requirements set forth in subsection (25) of this
13 section.

14 (27) "Leave of absence" means the period of time a member is
15 authorized by the employer to be absent from service without being
16 separated from membership.

17 (28) "Totally incapacitated for duty" means total inability to
18 perform the duties of a member's employment or office or any other work
19 for which the member is qualified by training or experience.

20 (29) "Retiree" means any person who has begun accruing a retirement
21 allowance or other benefit provided by this chapter resulting from
22 service rendered to an employer while a member.

23 (30) "Director" means the director of the department.

24 (31) "State elective position" means any position held by any
25 person elected or appointed to statewide office or elected or appointed
26 as a member of the legislature.

27 (32) "State actuary" or "actuary" means the person appointed
28 pursuant to RCW 44.44.010(2).

29 (33) "Plan 1" means the public employees' retirement system, plan
30 1 providing the benefits and funding provisions covering persons who
31 first became members of the system prior to October 1, 1977.

32 (34) "Plan 2" means the public employees' retirement system, plan
33 2 providing the benefits and funding provisions covering persons who
34 first became members of the system on and after October 1, 1977, and
35 are not included in plan 3.

36 (35) "Plan 3" means the public employees' retirement system, plan
37 3 providing the benefits and funding provisions covering persons who:

38 (a) First become a member on or after:

1 (i) March 1, 2002, and are employed by a state agency or institute
2 of higher education and who did not choose to enter plan 2; or

3 (ii) September 1, 2002, and are employed by other than a state
4 agency or institute of higher education and who did not choose to enter
5 plan 2; or

6 (b) Transferred to plan 3 under RCW 41.40.795.

7 (36) "Index" means, for any calendar year, that year's annual
8 average consumer price index, Seattle, Washington area, for urban wage
9 earners and clerical workers, all items, compiled by the bureau of
10 labor statistics, United States department of labor.

11 (37) "Index A" means the index for the year prior to the
12 determination of a postretirement adjustment.

13 (38) "Index B" means the index for the year prior to index A.

14 (39) "Index year" means the earliest calendar year in which the
15 index is more than sixty percent of index A.

16 (40) "Adjustment ratio" means the value of index A divided by index
17 B.

18 (41) "Annual increase" means, initially, fifty-nine cents per month
19 per year of service which amount shall be increased each July 1st by
20 three percent, rounded to the nearest cent.

21 (42) "Separation from service" occurs when a person has terminated
22 all employment with an employer. Separation from service or employment
23 does not occur, and if claimed by an employer or employee may be a
24 violation of RCW 41.40.055, when an employee and employer have a
25 written or oral agreement to resume employment with the same employer
26 following termination.

27 (43) "Member account" or "member's account" for purposes of plan 3
28 means the sum of the contributions and earnings on behalf of the member
29 in the defined contribution portion of plan 3.

30 (44) "Domestic partner" means two persons in a relationship who:

31 (a) Have a close personal relationship;

32 (b) Are each other's sole domestic partner and are responsible for
33 each other's common welfare;

34 (c) Share the same regular and permanent residence;

35 (d) Are jointly responsible for basic living expenses, which means
36 the cost of basic food, shelter, and any other expenses of a domestic
37 partner, that are paid at least in part by a program or benefit for
38 which the partner qualified because of the domestic partnership,

1 regardless of whether the persons contribute equally or jointly to the
2 cost of the expenses as long as they agree that both are responsible
3 for the cost;

4 (e) Are not married to anyone;

5 (f) Are each eighteen years of age or older;

6 (g) Are not related by blood closer than would bar marriage in the
7 state of Washington; and

8 (h) Were mentally competent to consent to contract when the
9 domestic partnership began.

10 **Sec. 41.** RCW 41.40.0931 and 1998 c 157 s 1 are each amended to
11 read as follows:

12 (1) A one hundred fifty thousand dollar death benefit for members
13 who had the opportunity to transfer to the law enforcement officers'
14 and fire fighters' retirement system pursuant to chapter 502, Laws of
15 1993, but elected to remain in the public employees' retirement system,
16 shall be paid to the member's estate, or such person or persons, trust,
17 or organization as the member has nominated by written designation duly
18 executed and filed with the department. If there is no designated
19 person or persons still living at the time of the member's death, the
20 member's death benefit shall be paid to the member's surviving spouse
21 or domestic partner as if in fact the spouse or domestic partner had
22 been nominated by written designation, or if there is no surviving
23 spouse or domestic partner, then to the member's legal representatives.

24 (2) Subject to subsection (3) of this section, the benefit under
25 this section shall be paid only where death occurs as a result of
26 injuries sustained in the course of employment as a general authority
27 police officer. The determination of eligibility for the benefit shall
28 be made consistent with Title 51 RCW by the department of labor and
29 industries. The department of labor and industries shall notify the
30 department of retirement systems by order under RCW 51.52.050.

31 (3) The benefit under this section shall not be paid in the event
32 the member was in the act of committing a felony when the fatal
33 injuries were suffered.

34 **Sec. 42.** RCW 41.40.170 and 2005 c 247 s 2 and 2005 c 64 s 1 are
35 each reenacted and amended to read as follows:

36 (1) A member who has served or shall serve on active federal

1 service in the military or naval forces of the United States and who
2 left or shall leave an employer to enter such service shall be deemed
3 to be on military leave of absence if he or she has resumed or shall
4 resume employment as an employee within one year from termination
5 thereof.

6 (2) If he or she has applied or shall apply for reinstatement of
7 employment, within one year from termination of the military service,
8 and is refused employment for reasons beyond his or her control, he or
9 she shall, upon resumption of service within ten years have such
10 service credited to him or her.

11 (3) In any event, after completing twenty-five years of creditable
12 service, any member may have service in the armed forces credited to
13 him or her as a member whether or not he or she left the employ of an
14 employer to enter the armed service: PROVIDED, That in no instance,
15 described in this section, shall military service in excess of five
16 years be credited: AND PROVIDED FURTHER, That in each instance the
17 member must restore all withdrawn accumulated contributions, which
18 restoration must be completed within five years of membership service
19 following the first resumption of employment or complete twenty-five
20 years of creditable service: AND PROVIDED FURTHER, That this section
21 will not apply to any individual, not a veteran within the meaning of
22 RCW 41.04.005.

23 (4)(a) A member, after completing twenty-five years of creditable
24 service, who would have otherwise become eligible for a retirement
25 benefit as defined under this chapter while serving honorably in the
26 armed forces as referenced in RCW 41.04.005, shall, upon application to
27 the department, be eligible to receive credit for this service without
28 returning to covered employment.

29 (b) Service credit granted under (a) of this subsection applies
30 only to veterans as defined in RCW 41.40.005.

31 (5) The surviving spouse, domestic partner, or eligible child or
32 children of a member who left the employ of an employer to enter the
33 uniformed services of the United States and died while serving in the
34 uniformed services may, on behalf of the deceased member, apply for
35 retirement system service credit under this subsection up to the date
36 of the member's death in the uniformed services. The department shall
37 establish the deceased member's service credit if the surviving spouse,
38 domestic partner, or eligible child or children:

1 (a) Provides to the director proof of the member's death while
2 serving in the uniformed services; and

3 (b) Provides to the director proof of the member's honorable
4 service in the uniformed services prior to the date of death.

5 (6) A member who leaves the employ of an employer to enter the
6 uniformed services of the United States and becomes totally
7 incapacitated for continued employment by an employer while serving in
8 the uniformed services is entitled to retirement system service credit
9 under this subsection up to the date of discharge from the uniformed
10 services if:

11 (a) The member obtains a determination from the director that he or
12 she is totally incapacitated for continued employment due to conditions
13 or events that occurred while serving in the uniformed services; and

14 (b) The member provides to the director proof of honorable
15 discharge from the uniformed services.

16 **Sec. 43.** RCW 41.40.185 and 1991 c 343 s 7 are each amended to read
17 as follows:

18 Upon retirement from service, as provided for in RCW 41.40.180 or
19 41.40.210, a member shall be eligible for a service retirement
20 allowance computed on the basis of the law in effect at the time of
21 retirement, together with such postretirement pension increases as may
22 from time to time be expressly authorized by the legislature. The
23 service retirement allowance payable to members retiring on and after
24 February 25, 1972 shall consist of:

25 (1) An annuity which shall be the actuarial equivalent of his or
26 her additional contributions made pursuant to RCW 41.40.330(2).

27 (2) A membership service pension, subject to the provisions of
28 subsection (4) of this section, which shall be equal to two percent of
29 his or her average final compensation for each service credit year or
30 fraction of a service credit year of membership service.

31 (3) A prior service pension which shall be equal to one-seventieth
32 of his or her average final compensation for each year or fraction of
33 a year of prior service not to exceed thirty years credited to his or
34 her service accounts. In no event, except as provided in this 1972
35 amendatory act, shall any member receive a retirement allowance
36 pursuant to subsections (2) and (3) of this section of more than sixty
37 percent of his or her average final compensation: PROVIDED, That no

1 member shall receive a pension under this section of less than nine
2 hundred dollars per annum if such member has twelve or more years of
3 service credit, or less than one thousand and two hundred dollars per
4 annum if such member has sixteen or more years of service credit, or
5 less than one thousand five hundred and sixty dollars per annum if such
6 member has twenty or more years of service credit.

7 (4) Notwithstanding the provisions of subsections (1) through (3)
8 of this section, the retirement allowance payable for service where a
9 member was elected or appointed pursuant to Articles II or III of the
10 Constitution of the state of Washington or RCW 48.02.010 and the
11 implementing statutes shall be a combined pension and annuity. Said
12 retirement allowance shall be equal to three percent of the average
13 final compensation for each year of such service. Any member covered
14 by this subsection who upon retirement has served ten or more years
15 shall receive a retirement allowance of at least one thousand two
16 hundred dollars per annum; such member who has served fifteen or more
17 years shall receive a retirement allowance of at least one thousand
18 eight hundred dollars per annum; and such member who has served twenty
19 or more years shall receive a retirement allowance of at least two
20 thousand four hundred dollars per annum: PROVIDED, That the initial
21 retirement allowance of a member retiring only under the provisions of
22 this subsection shall not exceed the average final compensation upon
23 which the retirement allowance is based. The minimum benefits provided
24 in this subsection shall apply to all retired members or to the
25 surviving spouse or domestic partner of deceased members who were
26 elected to the office of state senator or state representative.

27 **Sec. 44.** RCW 41.40.188 and 2002 c 158 s 12 are each amended to
28 read as follows:

29 (1) Upon retirement for service as prescribed in RCW 41.40.180 or
30 retirement for disability under RCW 41.40.210 or 41.40.230, a member
31 shall elect to have the retirement allowance paid pursuant to one of
32 the following options calculated so as to be actuarially equivalent to
33 each other.

34 (a) Standard allowance. A member electing this option shall
35 receive a retirement allowance payable throughout such member's life.
36 However, if the retiree dies before the total of the retirement
37 allowance paid to such retiree equals the amount of such retiree's

1 accumulated contributions at the time of retirement, then the balance
2 shall be paid to the member's estate, or such person or persons, trust,
3 or organization as the retiree shall have nominated by written
4 designation duly executed and filed with the department; or if there be
5 no such designated person or persons still living at the time of the
6 retiree's death, then to the surviving spouse or domestic partner; or
7 if there be neither such designated person or persons still living at
8 the time of death nor a surviving spouse or domestic partner, then to
9 the retiree's legal representative.

10 (b) The department shall adopt rules that allow a member to select
11 a retirement option that pays the member a reduced retirement allowance
12 and upon death, such portion of the member's reduced retirement
13 allowance as the department by rule designates shall be continued
14 throughout the life of and paid to a person nominated by the member by
15 written designation duly executed and filed with the department at the
16 time of retirement. The options adopted by the department shall
17 include, but are not limited to, a joint and one hundred percent
18 survivor option and a joint and fifty percent survivor option.

19 (c) A member may elect to include the benefit provided under RCW
20 41.40.640 along with the retirement options available under this
21 section. This retirement allowance option shall be calculated so as to
22 be actuarially equivalent to the options offered under this subsection.

23 (2)(a) A member, if married, must provide the written consent of
24 his or her spouse to the option selected under this section, except as
25 provided in (b) of this subsection. If a member is married and both
26 the member and the member's spouse do not give written consent to an
27 option under this section, the department shall pay a joint and fifty
28 percent survivor benefit calculated to be actuarially equivalent to the
29 benefit options available under subsection (1) of this section unless
30 spousal consent is not required as provided in (b) of this subsection.

31 (b) If a copy of a dissolution order designating a survivor
32 beneficiary under RCW 41.50.790 has been filed with the department at
33 least thirty days prior to a member's retirement:

34 (i) The department shall honor the designation as if made by the
35 member under subsection (1) of this section; and

36 (ii) The spousal consent provisions of (a) of this subsection do
37 not apply.

1 (3)(a) Any member who retired before January 1, 1996, and who
2 elected to receive a reduced retirement allowance under subsection
3 (1)(b) or (2) of this section is entitled to receive a retirement
4 allowance adjusted in accordance with (b) of this subsection, if they
5 meet the following conditions:

6 (i) The retiree's designated beneficiary predeceases or has
7 predeceased the retiree; and

8 (ii) The retiree provides to the department proper proof of the
9 designated beneficiary's death.

10 (b) The retirement allowance payable to the retiree, as of July 1,
11 1998, or the date of the designated beneficiary's death, whichever
12 comes last, shall be increased by the percentage derived in (c) of this
13 subsection.

14 (c) The percentage increase shall be derived by the following:

15 (i) One hundred percent multiplied by the result of (c)(ii) of this
16 subsection converted to a percent;

17 (ii) Subtract one from the reciprocal of the appropriate joint and
18 survivor option factor;

19 (iii) The joint and survivor option factor shall be from the table
20 in effect as of July 1, 1998.

21 (d) The adjustment under (b) of this subsection shall accrue from
22 the beginning of the month following the date of the designated
23 beneficiary's death or from July 1, 1998, whichever comes last.

24 (4) No later than July 1, 2001, the department shall adopt rules
25 that allow a member additional actuarially equivalent survivor benefit
26 options, and shall include, but are not limited to:

27 (a)(i) A retired member who retired without designating a survivor
28 beneficiary shall have the opportunity to designate their spouse from
29 a postretirement marriage or domestic partner from a postretirement
30 domestic partnership as a survivor during a one-year period beginning
31 one year after the date of the postretirement marriage or
32 postretirement domestic partnership provided the retirement allowance
33 payable to the retiree is not subject to periodic payments pursuant to
34 a property division obligation as provided for in RCW 41.50.670.

35 (ii) A member who entered into a postretirement marriage or
36 postretirement domestic partnership prior to the effective date of the
37 rules adopted pursuant to this subsection and satisfies the conditions
38 of (a)(i) of this subsection shall have one year to designate their

1 spouse or domestic partner as a survivor beneficiary following the
2 adoption of the rules, however in the case of a domestic partnership,
3 the member must make the designation by the effective date of this
4 section.

5 (b) A retired member who elected to receive a reduced retirement
6 allowance under this section and designated a nonspouse as survivor
7 beneficiary shall have the opportunity to remove the survivor
8 designation and have their future benefit adjusted.

9 (c) The department may make an additional charge, if necessary, to
10 ensure that the benefits provided under this subsection remain
11 actuarially equivalent.

12 (5) No later than July 1, 2003, the department shall adopt rules to
13 permit:

14 (a) A court-approved property settlement incident to a court decree
15 of dissolution made before retirement to provide that benefits payable
16 to a member who meets the length of service requirements of RCW
17 41.40.180(1) and the member's divorcing spouse be divided into two
18 separate benefits payable over the life of each spouse.

19 The member shall have available the benefit options of subsection
20 (1) of this section upon retirement, and if remarried at the time of
21 retirement remains subject to the spousal consent requirements of
22 subsection (2) of this section. Any reductions of the member's benefit
23 subsequent to the division into two separate benefits shall be made
24 solely to the separate benefit of the member.

25 The nonmember ex spouse shall be eligible to commence receiving
26 their separate benefit upon reaching the age provided in RCW
27 41.40.180(1) and after filing a written application with the
28 department.

29 (b) A court-approved property settlement incident to a court decree
30 of dissolution made after retirement may only divide the benefit into
31 two separate benefits payable over the life of each spouse if the
32 nonmember ex spouse was selected as a survivor beneficiary at
33 retirement.

34 The retired member may later choose the survivor benefit options
35 available in subsection (4) of this section. Any actuarial reductions
36 subsequent to the division into two separate benefits shall be made
37 solely to the separate benefit of the member.

1 Both the retired member and the nonmember divorced spouse shall be
2 eligible to commence receiving their separate benefits upon filing a
3 copy of the dissolution order with the department in accordance with
4 RCW 41.50.670.

5 (c) The separate single life benefits of the member and the
6 nonmember ex spouse are not (i) subject to the minimum benefit
7 provisions of RCW 41.40.1984, or (ii) the minimum benefit annual
8 increase amount eligibility provisions of RCW 41.40.197 (2)(b) and
9 (3)(a).

10 (d) The department may make an additional charge or adjustment if
11 necessary to ensure that the separate benefits provided under this
12 subsection are actuarially equivalent to the benefits payable prior to
13 the decree of dissolution.

14 **Sec. 45.** RCW 41.40.190 and 1990 c 249 s 8 are each amended to read
15 as follows:

16 In lieu of the retirement allowance provided in RCW 41.40.185, an
17 individual employed on or before April 25, 1973 may, after complying
18 with RCW 41.40.180 or 41.40.210, make an irrevocable election to
19 receive the retirement allowance provided by this section which shall
20 consist of:

21 (1) An annuity which shall be the actuarial equivalent of his or
22 her accumulated contributions at the time of his or her retirement; and

23 (2) A basic service pension of one hundred dollars per annum; and

24 (3) A membership service pension, subject to the provisions of
25 (~~subdivision~~) subsection (4) of this section, which shall be equal to
26 one one-hundredth of his or her average final compensation for each
27 year or fraction of a year of membership service credited to his or her
28 service account; and

29 (4) A prior service pension which shall be equal to one-seventieth
30 of his or her average final compensation for each year or fraction of
31 a year of prior service not to exceed thirty years credited to his or
32 her service accounts. In no event shall any original member upon
33 retirement at age seventy with ten or more years of service credit
34 receive less than nine hundred dollars per annum as a retirement
35 allowance, nor shall any member upon retirement at any age receive a
36 retirement allowance of less than nine hundred dollars per annum if
37 such member has twelve or more years of service credit, or less than

1 one thousand and two hundred dollars per annum if such member has
2 sixteen or more years of service credit, or less than one thousand five
3 hundred and sixty dollars per annum if such member has twenty or more
4 years of service credit. In the event that the retirement allowance as
5 to such member provided by (~~subdivisions~~) subsections (1), (2), (3),
6 and (4) (~~hereof~~) of this section shall amount to less than the
7 aforesaid minimum retirement allowance, the basic service pension of
8 the member shall be increased from one hundred dollars to a sum
9 sufficient to make a retirement allowance of the applicable minimum
10 amount.

11 (5) Notwithstanding the provisions of subsections (1) through (4)
12 of this section, the retirement allowance payable for service where a
13 member was elected or appointed pursuant to Articles II or III of the
14 Constitution of the state of Washington or RCW 48.02.010 and the
15 implementing statutes shall be a combined pension and annuity. Said
16 retirement allowance shall be equal to three percent of the average
17 final compensation for each year of such service. Any member covered
18 by this subsection who upon retirement has served ten or more years
19 shall receive a retirement allowance of at least one thousand two
20 hundred dollars per annum; such member who has served fifteen or more
21 years shall receive a retirement allowance of at least one thousand
22 eight hundred dollars per annum; and such member who has served twenty
23 or more years shall receive a retirement allowance of at least two
24 thousand four hundred dollars per annum: PROVIDED, That the initial
25 retirement allowance of a member retiring only under the provisions of
26 this subsection shall not exceed the average final compensation upon
27 which the retirement allowance is based. The minimum benefits provided
28 in this subsection shall apply to all retired members or to the
29 surviving spouse or domestic partner of deceased members who were
30 elected under the provisions of Article II of the Washington state
31 Constitution.

32 (6) Unless payment shall be made under RCW 41.40.270, a joint and
33 one hundred percent survivor benefit under RCW 41.40.188 shall
34 automatically be given effect as if selected for the benefit of the
35 surviving spouse or domestic partner upon the death in service, or
36 while on authorized leave of absence for a period not to exceed one
37 hundred and twenty days from the date of payroll separation, of any
38 member who is qualified for a service retirement allowance or has

1 completed ten years of service at the time of death, except that if the
2 member is not then qualified for a service retirement allowance, such
3 option II benefit shall be based upon the actuarial equivalent of the
4 sum necessary to pay the accrued regular retirement allowance
5 commencing when the deceased member would have first qualified for a
6 service retirement allowance.

7 **Sec. 46.** RCW 41.40.220 and 1995 c 144 s 2 are each amended to read
8 as follows:

9 Upon retirement for disability, as provided in RCW 41.40.200, a
10 member who has not attained age sixty shall receive the following
11 benefits, subject to the provisions of RCW 41.40.310 and 41.40.320:

12 (1) A disability retirement pension of two-thirds of his or her
13 average final compensation to his or her attainment of age sixty,
14 subject to the provisions of RCW 41.40.310. The disability retirement
15 pension provided by the employer shall not exceed forty-two hundred
16 dollars per annum, and

17 (2) Upon attainment of age sixty, the disabled member shall receive
18 a service retirement allowance as provided in RCW 41.40.210. The
19 department shall grant the disabled member membership service for the
20 period of time prior to age sixty he or she was out of such service due
21 to disability.

22 (3) During the period a disabled member is receiving a disability
23 pension, as provided for in subsection (1) of this section, his or her
24 contributions to the employees' savings fund shall be suspended and his
25 or her balance in the employees' savings fund, standing to his or her
26 credit as of the date his or her disability pension is to begin, shall
27 remain in the employees' savings fund. If the disabled member should
28 die before attaining age sixty, while a disability beneficiary, upon
29 receipt by the department of proper proof of death, the member's
30 accumulated contributions standing to his or her credit in the
31 employees' savings fund, shall be paid to the member's estate, or such
32 person or persons, trust, or organization as he or she shall have
33 nominated by written designation duly executed and filed with the
34 department. If there is no designated person or persons still living
35 at the time of the member's death, the accumulated contributions
36 standing to the member's credit in the employees' savings fund shall be

1 paid to his or her surviving spouse or domestic partner, or if there is
2 no surviving spouse or domestic partner, then to the member's legal
3 representative.

4 **Sec. 47.** RCW 41.40.235 and 1995 c 144 s 3 are each amended to read
5 as follows:

6 (1) Upon retirement, a member shall receive a nonduty disability
7 retirement allowance equal to two percent of average final compensation
8 for each service credit year of service: PROVIDED, That this allowance
9 shall be reduced by two percent of itself for each year or fraction
10 thereof that his or her age is less than fifty-five years: PROVIDED
11 FURTHER, That in no case may the allowance provided by this section
12 exceed sixty percent of average final compensation.

13 (2) If the recipient of a retirement allowance under this section
14 dies before the total of the retirement allowance paid to the recipient
15 equals the amount of the accumulated contributions at the date of
16 retirement, then the balance shall be paid to the member's estate, or
17 the person or persons, trust, or organization as the recipient has
18 nominated by written designation duly executed and filed with the
19 director or, if there is no designated person or persons still living
20 at the time of the recipient's death, then to the surviving spouse or
21 domestic partner or, if there is neither a designated person or persons
22 still living at the time of his or her death nor a surviving spouse or
23 domestic partner, then to his or her legal representative.

24 **Sec. 48.** RCW 41.40.250 and 1995 c 144 s 4 are each amended to read
25 as follows:

26 An individual who was a member on February 25, 1972, may upon
27 qualifying pursuant to RCW 41.40.230, make an irrevocable election to
28 receive the nonduty disability retirement allowance provided in
29 subsections (1) and (2) of this section subject to the provisions of
30 RCW 41.40.310 and 41.40.320. Upon attaining or becoming disabled after
31 age sixty the member shall receive a service retirement allowance as
32 provided for in RCW 41.40.190 except that the annuity portion thereof
33 shall consist of a continuation of the cash refund annuity previously
34 provided to him or her. The disability retirement allowance prior to
35 age sixty shall consist of:

1 (1) A cash refund annuity which shall be the actuarial equivalent
2 of the member's accumulated contributions at the time of his or her
3 retirement; and

4 (2) A pension, in addition to the annuity, equal to one one-
5 hundredth of the member's average final compensation for each year of
6 service. If the recipient of a retirement allowance under this section
7 dies before the total of the annuity portions of the retirement
8 allowance paid to him or her equals the amount of his or her
9 accumulated contributions at the date of retirement, then the balance
10 shall be paid to the member's estate, or the person or persons, trust,
11 or organization as he or she shall have nominated by written
12 designation duly executed and filed with the department, or if there is
13 no designated person or persons, still living at the time of his or her
14 death, then to his or her surviving spouse or domestic partner, or if
15 there is no designated person or persons still living at the time of
16 his or her death nor a surviving spouse or domestic partner, then to
17 his or her legal representatives.

18 **Sec. 49.** RCW 41.40.270 and 2003 c 155 s 6 are each amended to read
19 as follows:

20 (1) Except as specified in subsection (4) of this section, should
21 a member die before the date of retirement the amount of the
22 accumulated contributions standing to the member's credit in the
23 employees' savings fund, less any amount identified as owing to an
24 obligee upon withdrawal of accumulated contributions pursuant to a
25 court order filed under RCW 41.50.670, at the time of death:

26 (a) Shall be paid to the member's estate, or such person or
27 persons, trust, or organization as the member shall have nominated by
28 written designation duly executed and filed with the department; or

29 (b) If there be no such designated person or persons still living
30 at the time of the member's death, or if a member fails to file a new
31 beneficiary designation subsequent to marriage, remarriage, dissolution
32 of marriage, divorce, or reestablishment of membership following
33 termination by withdrawal or retirement, such accumulated
34 contributions, less any amount identified as owing to an obligee upon
35 withdrawal of accumulated contributions pursuant to a court order filed
36 under RCW 41.50.670, shall be paid to the surviving spouse or domestic
37 partner as if in fact such spouse or domestic partner had been

1 nominated by written designation as aforesaid, or if there be no such
2 surviving spouse or domestic partner, then to the member's legal
3 representatives.

4 (2) Upon the death in service, or while on authorized leave of
5 absence for a period not to exceed one hundred and twenty days from the
6 date of payroll separation, of any member who is qualified but has not
7 applied for a service retirement allowance or has completed ten years
8 of service at the time of death, the designated beneficiary, or the
9 surviving spouse or domestic partner as provided in subsection (1) of
10 this section, may elect to waive the payment provided by subsection (1)
11 of this section. Upon such an election, a joint and one hundred
12 percent survivor option under RCW 41.40.188, calculated under the
13 retirement allowance described in RCW 41.40.185 or 41.40.190, whichever
14 is greater, actuarially reduced, except under subsection (5) of this
15 section, by the amount of any lump sum benefit identified as owing to
16 an obligee upon withdrawal of accumulated contributions pursuant to a
17 court order filed under RCW 41.50.670 shall automatically be given
18 effect as if selected for the benefit of the designated beneficiary.
19 If the member is not then qualified for a service retirement allowance,
20 such benefit shall be based upon the actuarial equivalent of the sum
21 necessary to pay the accrued regular retirement allowance commencing
22 when the deceased member would have first qualified for a service
23 retirement allowance.

24 (3) Subsection (1) of this section, unless elected, shall not apply
25 to any member who has applied for service retirement in RCW 41.40.180,
26 as now or hereafter amended, and thereafter dies between the date of
27 separation from service and the member's effective retirement date,
28 where the member has selected a survivorship option under RCW
29 41.40.188. In those cases the beneficiary named in the member's final
30 application for service retirement may elect to receive either a cash
31 refund, less any amount identified as owing to an obligee upon
32 withdrawal of accumulated contributions pursuant to a court order filed
33 under RCW 41.50.670, or monthly payments according to the option
34 selected by the member.

35 (4) If a member dies within sixty days following application for
36 disability retirement under RCW 41.40.230, the beneficiary named in the
37 application may elect to receive the benefit provided by:

38 (a) This section; or

1 (b) RCW 41.40.235, according to the option chosen under RCW
2 41.40.188 in the disability application.

3 (5) The retirement allowance of a member who is killed in the
4 course of employment, as determined by the director of the department
5 of labor and industries, is not subject to an actuarial reduction. The
6 member's retirement allowance is computed under RCW 41.40.185.

7 **Sec. 50.** RCW 41.40.660 and 2003 c 294 s 6 are each amended to read
8 as follows:

9 (1) Upon retirement for service as prescribed in RCW 41.40.630 or
10 retirement for disability under RCW 41.40.670, a member shall elect to
11 have the retirement allowance paid pursuant to one of the following
12 options, calculated so as to be actuarially equivalent to each other.

13 (a) Standard allowance. A member electing this option shall
14 receive a retirement allowance payable throughout such member's life.
15 However, if the retiree dies before the total of the retirement
16 allowance paid to such retiree equals the amount of such retiree's
17 accumulated contributions at the time of retirement, then the balance
18 shall be paid to the member's estate, or such person or persons, trust,
19 or organization as the retiree shall have nominated by written
20 designation duly executed and filed with the department; or if there be
21 no such designated person or persons still living at the time of the
22 retiree's death, then to the surviving spouse or domestic partner; or
23 if there be neither such designated person or persons still living at
24 the time of death nor a surviving spouse or domestic partner, then to
25 the retiree's legal representative.

26 (b) The department shall adopt rules that allow a member to select
27 a retirement option that pays the member a reduced retirement allowance
28 and upon death, such portion of the member's reduced retirement
29 allowance as the department by rule designates shall be continued
30 throughout the life of and paid to a person nominated by the member by
31 written designation duly executed and filed with the department at the
32 time of retirement. The options adopted by the department shall
33 include, but are not limited to, a joint and one hundred percent
34 survivor option and a joint and fifty percent survivor option.

35 (2)(a) A member, if married, must provide the written consent of
36 his or her spouse to the option selected under this section, except as
37 provided in (b) of this subsection. If a member is married and both

1 the member and the member's spouse do not give written consent to an
2 option under this section, the department shall pay a joint and fifty
3 percent survivor benefit calculated to be actuarially equivalent to the
4 benefit options available under subsection (1) of this section unless
5 spousal consent is not required as provided in (b) of this subsection.

6 (b) If a copy of a dissolution order designating a survivor
7 beneficiary under RCW 41.50.790 has been filed with the department at
8 least thirty days prior to a member's retirement:

9 (i) The department shall honor the designation as if made by the
10 member under subsection (1) of this section; and

11 (ii) The spousal consent provisions of (a) of this subsection do
12 not apply.

13 (3)(a) Any member who retired before January 1, 1996, and who
14 elected to receive a reduced retirement allowance under subsection
15 (1)(b) or (2) of this section is entitled to receive a retirement
16 allowance adjusted in accordance with (b) of this subsection, if they
17 meet the following conditions:

18 (i) The retiree's designated beneficiary predeceases or has
19 predeceased the retiree; and

20 (ii) The retiree provides to the department proper proof of the
21 designated beneficiary's death.

22 (b) The retirement allowance payable to the retiree, as of July 1,
23 1998, or the date of the designated beneficiary's death, whichever
24 comes last, shall be increased by the percentage derived in (c) of this
25 subsection.

26 (c) The percentage increase shall be derived by the following:

27 (i) One hundred percent multiplied by the result of (c)(ii) of this
28 subsection converted to a percent;

29 (ii) Subtract one from the reciprocal of the appropriate joint and
30 survivor option factor;

31 (iii) The joint and survivor option factor shall be from the table
32 in effect as of July 1, 1998.

33 (d) The adjustment under (b) of this subsection shall accrue from
34 the beginning of the month following the date of the designated
35 beneficiary's death or from July 1, 1998, whichever comes last.

36 (4) No later than July 1, 2001, the department shall adopt rules
37 that allow a member additional actuarially equivalent survivor benefit
38 options, and shall include, but are not limited to:

1 (a)(i) A retired member who retired without designating a survivor
2 beneficiary shall have the opportunity to designate their spouse from
3 a postretirement marriage or a domestic partner from a postretirement
4 domestic partnership as a survivor during a one-year period beginning
5 one year after the date of the postretirement marriage or
6 postretirement domestic partnership provided the retirement allowance
7 payable to the retiree is not subject to periodic payments pursuant to
8 a property division obligation as provided for in RCW 41.50.670.

9 (ii) A member who entered into a postretirement marriage or
10 postretirement domestic partnership prior to the effective date of the
11 rules adopted pursuant to this subsection and satisfies the conditions
12 of (a)(i) of this subsection shall have one year to designate their
13 spouse or domestic partner as a survivor beneficiary following the
14 adoption of the rules, however in the case of a domestic partnership,
15 the member must make the designation by the effective of this section.

16 (b) A retired member who elected to receive a reduced retirement
17 allowance under this section and designated a nonspouse as survivor
18 beneficiary shall have the opportunity to remove the survivor
19 designation and have their future benefit adjusted.

20 (c) The department may make an additional charge, if necessary, to
21 ensure that the benefits provided under this subsection remain
22 actuarially equivalent.

23 (5) No later than July 1, 2003, the department shall adopt rules to
24 permit:

25 (a) A court-approved property settlement incident to a court decree
26 of dissolution made before retirement to provide that benefits payable
27 to a member who meets the length of service requirements of RCW
28 41.40.720 and the member's divorcing spouse be divided into two
29 separate benefits payable over the life of each spouse.

30 The member shall have available the benefit options of subsection
31 (1) of this section upon retirement, and if remarried at the time of
32 retirement remains subject to the spousal consent requirements of
33 subsection (2) of this section. Any reductions of the member's benefit
34 subsequent to the division into two separate benefits shall be made
35 solely to the separate benefit of the member.

36 The nonmember ex spouse shall be eligible to commence receiving
37 their separate benefit upon reaching the age provided in RCW

1 41.40.630(1) and after filing a written application with the
2 department.

3 (b) A court-approved property settlement incident to a court decree
4 of dissolution made after retirement may only divide the benefit into
5 two separate benefits payable over the life of each spouse if the
6 nonmember ex spouse was selected as a survivor beneficiary at
7 retirement.

8 The retired member may later choose the survivor benefit options
9 available in subsection (4) of this section. Any actuarial reductions
10 subsequent to the division into two separate benefits shall be made
11 solely to the separate benefit of the member.

12 Both the retired member and the nonmember divorced spouse shall be
13 eligible to commence receiving their separate benefits upon filing a
14 copy of the dissolution order with the department in accordance with
15 RCW 41.50.670.

16 (c) The department may make an additional charge or adjustment if
17 necessary to ensure that the separate benefits provided under this
18 subsection are actuarially equivalent to the benefits payable prior to
19 the decree of dissolution.

20 **Sec. 51.** RCW 41.40.670 and 1995 c 144 s 7 are each amended to read
21 as follows:

22 (1) A member of the retirement system who becomes totally
23 incapacitated for continued employment by an employer as determined by
24 the department upon recommendation of the department shall be eligible
25 to receive an allowance under the provisions of RCW 41.40.610 through
26 41.40.740. The member shall receive a monthly disability allowance
27 computed as provided for in RCW 41.40.620 and shall have this allowance
28 actuarially reduced to reflect the difference in the number of years
29 between age at disability and the attainment of age sixty-five.

30 Any member who receives an allowance under the provisions of this
31 section shall be subject to comprehensive medical examinations as
32 required by the department. If these medical examinations reveal that
33 a member has recovered from the incapacitating disability and the
34 member is offered reemployment by an employer at a comparable
35 compensation, the member shall cease to be eligible for the allowance.

36 (2) The retirement for disability of a judge, who is a member of
37 the retirement system, by the supreme court under Article IV, section

1 31 of the Constitution of the state of Washington (Amendment 71), with
2 the concurrence of the department, shall be considered a retirement
3 under subsection (1) of this section.

4 (3)(a) If the recipient of a monthly retirement allowance under
5 this section dies before the total of the retirement allowance paid to
6 the recipient equals the amount of the accumulated contributions at the
7 date of retirement, then the balance shall be paid to the member's
8 estate, or the person or persons, trust, or organization as the
9 recipient has nominated by written designation duly executed and filed
10 with the director, or, if there is no designated person or persons
11 still living at the time of the recipient's death, then to the
12 surviving spouse or domestic partner, or, if there is no designated
13 person or persons still living at the time of his or her death nor a
14 surviving spouse or domestic partner, then to his or her legal
15 representative.

16 (b) If a recipient of a monthly retirement allowance under this
17 section died before April 27, 1989, and before the total of the
18 retirement allowance paid to the recipient equaled the amount of his or
19 her accumulated contributions at the date of retirement, then the
20 department shall pay the balance of the accumulated contributions to
21 the member's surviving spouse or, if there is no surviving spouse, then
22 in equal shares to the member's children. If there is no surviving
23 spouse or children, the department shall retain the contributions.

24 **Sec. 52.** RCW 41.40.700 and 2003 c 155 s 7 are each amended to read
25 as follows:

26 (1) Except as provided in RCW 11.07.010, if a member or a vested
27 member who has not completed at least ten years of service dies, the
28 amount of the accumulated contributions standing to such member's
29 credit in the retirement system at the time of such member's death,
30 less any amount identified as owing to an obligee upon withdrawal of
31 accumulated contributions pursuant to a court order filed under RCW
32 41.50.670, shall be paid to the member's estate, or such person or
33 persons, trust, or organization as the member shall have nominated by
34 written designation duly executed and filed with the department. If
35 there be no such designated person or persons still living at the time
36 of the member's death, such member's accumulated contributions standing
37 to such member's credit in the retirement system, less any amount

1 identified as owing to an obligee upon withdrawal of accumulated
2 contributions pursuant to a court order filed under RCW 41.50.670,
3 shall be paid to the member's surviving spouse or domestic partner as
4 if in fact such spouse or domestic partner had been nominated by
5 written designation, or if there be no such surviving spouse or
6 domestic partner, then to such member's legal representatives.

7 (2) If a member who is eligible for retirement or a member who has
8 completed at least ten years of service dies, the surviving spouse,
9 domestic partner, or eligible child or children shall elect to receive
10 either:

11 (a) A retirement allowance computed as provided for in RCW
12 41.40.630, actuarially reduced by the amount of any lump sum benefit
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under RCW 41.50.670 and
15 actuarially adjusted to reflect a joint and one hundred percent
16 survivor option under RCW 41.40.660 and, except under subsection (4) of
17 this section, if the member was not eligible for normal retirement at
18 the date of death a further reduction as described in RCW 41.40.630; if
19 a surviving spouse or domestic partner who is receiving a retirement
20 allowance dies leaving a child or children of the member under the age
21 of majority, then such child or children shall continue to receive an
22 allowance in an amount equal to that which was being received by the
23 surviving spouse or domestic partner, share and share alike, until such
24 child or children reach the age of majority; if there is no surviving
25 spouse or domestic partner eligible to receive an allowance at the time
26 of the member's death, such member's child or children under the age of
27 majority shall receive an allowance share and share alike calculated as
28 herein provided making the assumption that the ages of the spouse or
29 domestic partner and member were equal at the time of the member's
30 death; or

31 (b) The member's accumulated contributions, less any amount
32 identified as owing to an obligee upon withdrawal of accumulated
33 contributions pursuant to a court order filed under RCW 41.50.670.

34 (3) If a member who is eligible for retirement or a member who has
35 completed at least ten years of service dies after October 1, 1977, and
36 is not survived by a spouse, domestic partner, or an eligible child,
37 then the accumulated contributions standing to the member's credit,

1 less any amount identified as owing to an obligee upon withdrawal of
2 accumulated contributions pursuant to a court order filed under RCW
3 41.50.670, shall be paid:

4 (a) To a person or persons, estate, trust, or organization as the
5 member shall have nominated by written designation duly executed and
6 filed with the department; or

7 (b) If there is no such designated person or persons still living
8 at the time of the member's death, then to the member's legal
9 representatives.

10 (4) A member who is killed in the course of employment, as
11 determined by the director of the department of labor and industries,
12 is not subject to an actuarial reduction under RCW 41.40.630. The
13 member's retirement allowance is computed under RCW 41.40.620.

14 **Sec. 53.** RCW 41.40.710 and 2005 c 64 s 2 are each amended to read
15 as follows:

16 (1) A member who is on a paid leave of absence authorized by a
17 member's employer shall continue to receive service credit as provided
18 for under the provisions of RCW 41.40.610 through 41.40.740.

19 (2) A member who receives compensation from an employer while on an
20 authorized leave of absence to serve as an elected official of a labor
21 organization, and whose employer is reimbursed by the labor
22 organization for the compensation paid to the member during the period
23 of absence, may also be considered to be on a paid leave of absence.
24 This subsection shall only apply if the member's leave of absence is
25 authorized by a collective bargaining agreement that provides that the
26 member retains seniority rights with the employer during the period of
27 leave. The compensation earnable reported for a member who establishes
28 service credit under this subsection may not be greater than the salary
29 paid to the highest paid job class covered by the collective bargaining
30 agreement.

31 (3) Except as specified in subsection (4) of this section, a member
32 shall be eligible to receive a maximum of two years' service credit
33 during a member's entire working career for those periods when a member
34 is on an unpaid leave of absence authorized by an employer. Such
35 credit may be obtained only if:

36 (a) The member makes both the plan 2 employer and member

1 contributions plus interest as determined by the department for the
2 period of the authorized leave of absence within five years of
3 resumption of service or prior to retirement whichever comes sooner; or

4 (b) If not within five years of resumption of service but prior to
5 retirement, pay the amount required under RCW 41.50.165(2).

6 The contributions required under (a) of this subsection shall be
7 based on the average of the member's compensation earnable at both the
8 time the authorized leave of absence was granted and the time the
9 member resumed employment.

10 (4) A member who leaves the employ of an employer to enter the
11 uniformed services of the United States shall be entitled to retirement
12 system service credit for up to five years of military service. This
13 subsection shall be administered in a manner consistent with the
14 requirements of the federal uniformed services employment and
15 reemployment rights act.

16 (a) The member qualifies for service credit under this subsection
17 if:

18 (i) Within ninety days of the member's honorable discharge from the
19 uniformed services of the United States, the member applies for
20 reemployment with the employer who employed the member immediately
21 prior to the member entering the uniformed services; and

22 (ii) The member makes the employee contributions required under RCW
23 41.45.061 and 41.45.067 within five years of resumption of service or
24 prior to retirement, whichever comes sooner; or

25 (iii) Prior to retirement and not within ninety days of the
26 member's honorable discharge or five years of resumption of service the
27 member pays the amount required under RCW 41.50.165(2).

28 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),
29 or (e)(iii) of this subsection, the department shall establish the
30 member's service credit and shall bill the employer for its
31 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for
32 the period of military service, plus interest as determined by the
33 department.

34 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)
35 of this subsection shall be based on the compensation the member would
36 have earned if not on leave, or if that cannot be estimated with
37 reasonable certainty, the compensation reported for the member in the
38 year prior to when the member went on military leave.

1 (d) The surviving spouse, domestic partner, or eligible child or
2 children of a member who left the employ of an employer to enter the
3 uniformed services of the United States and died while serving in the
4 uniformed services may, on behalf of the deceased member, apply for
5 retirement system service credit under this subsection up to the date
6 of the member's death in the uniformed services. The department shall
7 establish the deceased member's service credit if the surviving spouse,
8 domestic partner, or eligible child or children:

9 (i) Provide(~~s~~) to the director proof of the member's death while
10 serving in the uniformed services;

11 (ii) Provide(~~s~~) to the director proof of the member's honorable
12 service in the uniformed services prior to the date of death; and

13 (iii) Pay(~~s~~) the employee contributions required under chapter
14 41.45 RCW within five years of the date of death or prior to the
15 distribution of any benefit, whichever comes first.

16 (e) A member who leaves the employ of an employer to enter the
17 uniformed services of the United States and becomes totally
18 incapacitated for continued employment by an employer while serving in
19 the uniformed services is entitled to retirement system service credit
20 under this subsection up to the date of discharge from the uniformed
21 services if:

22 (i) The member obtains a determination from the director that he or
23 she is totally incapacitated for continued employment due to conditions
24 or events that occurred while serving in the uniformed services;

25 (ii) The member provides to the director proof of honorable
26 discharge from the uniformed services; and

27 (iii) The member pays the employee contributions required under
28 chapter 41.45 RCW within five years of the director's determination of
29 total disability or prior to the distribution of any benefit, whichever
30 comes first.

31 **Sec. 54.** RCW 41.40.805 and 2005 c 64 s 3 are each amended to read
32 as follows:

33 (1) A member who is on a paid leave of absence authorized by a
34 member's employer shall continue to receive service credit.

35 (2) A member who receives compensation from an employer while on an
36 authorized leave of absence to serve as an elected official of a labor
37 organization, and whose employer is reimbursed by the labor

1 organization for the compensation paid to the member during the period
2 of absence, may also be considered to be on a paid leave of absence.
3 This subsection shall only apply if the member's leave of absence is
4 authorized by a collective bargaining agreement that provides that the
5 member retains seniority rights with the employer during the period of
6 leave. The earnable compensation reported for a member who establishes
7 service credit under this subsection may not be greater than the salary
8 paid to the highest paid job class covered by the collective bargaining
9 agreement.

10 (3) Except as specified in subsection (4) of this section, a member
11 shall be eligible to receive a maximum of two years' service credit
12 during a member's entire working career for those periods when a member
13 is on an unpaid leave of absence authorized by an employer. Such
14 credit may be obtained only if:

15 (a) The member makes the contribution on behalf of the employer,
16 plus interest, as determined by the department; and

17 (b) The member makes the employee contribution, plus interest, as
18 determined by the department, to the defined contribution portion.

19 The contributions required shall be based on the average of the
20 member's earnable compensation at both the time the authorized leave of
21 absence was granted and the time the member resumed employment.

22 (4) A member who leaves the employ of an employer to enter the
23 uniformed services of the United States shall be entitled to retirement
24 system service credit for up to five years of military service if
25 within ninety days of the member's honorable discharge from the
26 uniformed services of the United States, the member applies for
27 reemployment with the employer who employed the member immediately
28 prior to the member entering the uniformed services. This subsection
29 shall be administered in a manner consistent with the requirements of
30 the federal uniformed services employment and reemployment rights act.

31 The department shall establish the member's service credit and
32 shall bill the employer for its contribution required under RCW
33 41.45.060 and 41.45.067 for the period of military service, plus
34 interest as determined by the department. Service credit under this
35 subsection may be obtained only if the member makes the employee
36 contribution to the defined contribution portion as determined by the
37 department.

1 The contributions required shall be based on the compensation the
2 member would have earned if not on leave, or if that cannot be
3 estimated with reasonable certainty, the compensation reported for the
4 member in the year prior to when the member went on military leave.

5 (a) The surviving spouse, domestic partner, or eligible child or
6 children of a member who left the employ of an employer to enter the
7 uniformed services of the United States and died while serving in the
8 uniformed services may, on behalf of the deceased member, apply for
9 retirement system service credit under this subsection up to the date
10 of the member's death in the uniformed services. The department shall
11 establish the deceased member's service credit if the surviving spouse,
12 domestic partner, or eligible child or children:

13 (i) Provide((§)) to the director proof of the member's death while
14 serving in the uniformed services;

15 (ii) Provide((§)) to the director proof of the member's honorable
16 service in the uniformed services prior to the date of death; and

17 (iii) Pay((§)) the employee contributions required under this
18 subsection within five years of the date of death or prior to the
19 distribution of any benefit, whichever comes first.

20 (b) A member who leaves the employ of an employer to enter the
21 uniformed services of the United States and becomes totally
22 incapacitated for continued employment by an employer while serving in
23 the uniformed services is entitled to retirement system service credit
24 under this subsection up to the date of discharge from the uniformed
25 services if:

26 (i) The member obtains a determination from the director that he or
27 she is totally incapacitated for continued employment due to conditions
28 or events that occurred while serving in the uniformed services;

29 (ii) The member provides to the director proof of honorable
30 discharge from the uniformed services; and

31 (iii) The member pays the employee contributions required under
32 this subsection within five years of the director's determination of
33 total disability or prior to the distribution of any benefit, whichever
34 comes first.

35 **Sec. 55.** RCW 41.44.030 and 1967 ex.s. c 28 s 6 are each amended to
36 read as follows:

1 As used in this chapter, unless a different meaning is plainly
2 required by the context:

3 (1) "Retirement system" means the statewide city employees
4 retirement system provided for herein.

5 (2) "City" or "cities" includes town or towns.

6 (3) "Employee" means any appointive officer or employee and shall
7 include elective officials to the extent specified herein.

8 (4) "Member" means any person included in the membership of the
9 retirement system as provided herein.

10 (5) "Board" means the "board of trustees" provided for herein.

11 (6) "Retirement fund" means "statewide city employees retirement
12 fund" provided for herein.

13 (7) "Service" means service rendered to a city for compensation;
14 and for the purpose of this chapter a member shall be considered as
15 being in service only while he is receiving compensation from the city
16 for such service or is on leave granted for service in the armed forces
17 of the United States as contemplated in RCW 41.44.120.

18 (8) "Prior service" means the service of a member for compensation
19 rendered a city prior to the effective date and shall include service
20 in the armed forces of the United States to the extent specified herein
21 and service specified in RCW 41.44.120(5).

22 (9) "Current service" means service after the employee has become
23 a member of the system.

24 (10) "Creditable service" means such service as is evidenced by the
25 record of normal contributions, plus prior service as evidenced by
26 prior service certificate.

27 (11) "Beneficiary" means any person in receipt of a pension,
28 annuity, retirement allowance, disability allowance, or any other
29 benefit herein.

30 (12) "Compensation" means the compensation payable in cash, plus
31 the monetary value, as determined by the board of trustees, of any
32 allowance in lieu thereof (but for the purposes of this chapter such
33 "compensation" shall not exceed three hundred dollars per month, except
34 as to those employees of any member city the legislative body of which
35 shall not later than July 1, 1953, have irrevocably elected by
36 resolution or ordinance to increase the limitation herein contained,
37 effective as to all of its employees, from three hundred dollars to
38 four hundred dollars, commencing on said date, or which shall so elect

1 prior to January 1st of any succeeding year, effective as of January
2 1st of any such succeeding year, and as to such employees shall,
3 commencing on the specified date, not exceed four hundred dollars or an
4 amount equal to such increased limitation established by such ordinance
5 or resolution per month): PROVIDED HOWEVER, That the foregoing
6 limitation shall not apply to uniformed personnel.

7 (13) "Compensation earnable" means the full rate of compensation
8 that would be payable to an employee if he worked the full normal
9 working time (but for the purposes of this chapter, such "compensation
10 earnable" shall not exceed three hundred dollars per month, except as
11 to those employees of any member city the legislative body of which
12 shall not later than July 1, 1953, have irrevocably elected by
13 resolution or ordinance to increase the limitation herein contained,
14 effective as to all of its employees, from three hundred dollars to
15 four hundred dollars, commencing on said date, or which shall so elect
16 prior to January 1st of any succeeding year, effective as of January
17 1st of any such succeeding year, and as to such employees shall,
18 commencing on the specified date, not exceed four hundred dollars or an
19 amount equal to such increased limitation established by such ordinance
20 or resolution per month): PROVIDED, HOWEVER, That the foregoing
21 limitation shall not apply to uniformed personnel: PROVIDED FURTHER,
22 That after January 1, 1968 this term shall mean the full rate of
23 compensation payable to an employee if he worked the full normal
24 working time.

25 (14) "Final compensation" means the highest average annual
26 compensation earnable in any five consecutive years of actual service
27 rendered during the ten years immediately preceding retirement, or
28 where the employee has less than five consecutive years of actual
29 service, the earnable compensation for the last five years preceding
30 his retirement.

31 (15) "Matching contribution" means the contribution of the city
32 deposited in an amount equal to the normal contributions of the
33 employee.

34 (16) "Normal contributions" means the contributions at the rate
35 provided for in RCW 41.44.130, excluding those referred to in
36 subsection (6).

37 (17) "Released matching contributions" means such "matching
38 contributions" as are no longer held for the benefit of the employee.

1 (18) "Regular interest" means interest compounded annually at such
2 rate as shall have been adopted by the board of trustees in accordance
3 with the provisions of this chapter.

4 (19) "Accumulated normal contributions" means the sum of all normal
5 contributions, deducted from the compensation of a member, standing to
6 the credit of his individual account, together with regular interest
7 thereon.

8 (20) "Pension" means payments derived from contributions made by
9 the city as provided herein.

10 (21) "Annuity" means payments derived from contributions made by a
11 member as provided herein.

12 (22) "Retirement allowance" means the pension plus annuity.

13 (23) "Fiscal year" means any year commencing with January 1st and
14 ending with December 31st next following.

15 (24) "Miscellaneous personnel" means officers and employees other
16 than those in the uniformed police or fire service: PROVIDED, Those
17 members of the fire department who are ineligible to the benefits of a
18 firemen's pension system established by or pursuant to any other state
19 law, are also included in the miscellaneous personnel.

20 (25) "Uniformed personnel" means any employee who is a policeman in
21 service or who is subject to call to active service or duty as such.

22 (26) "Effective date" when used with regard to employees means the
23 date on which any individual or group of employees became members of
24 any retirement system and when used with regard to any city or town
25 shall mean the date on which it became a participant.

26 (27) "Actuarial equivalent" means a benefit of equal value when
27 computed at regular interest upon the basis of such mortality tables as
28 shall be adopted by the board of trustees.

29 (28) "Persons having an insurable interest in his life" means and
30 includes only such persons who, because of relationship from ties of
31 blood or marriage, have reason to expect some benefit from the
32 continuation of the life of the member.

33 (29) "Additional contributions" means contributions made pursuant
34 to subsection (6) of RCW 41.44.130.

35 (30) "Accumulated additional contributions" means the sum of all
36 "additional contributions" made by a member standing to the credit of
37 the individual account, together with regular interest thereon.

1 (31) "Part time employees" means those employees who, although
2 regularly and continuously employed, do not regularly perform their
3 duties the full number of hours required of other regular employees,
4 including but not confined to such employees as police judges, city
5 attorneys and other officers and employees who are also engaged in
6 outside employment or occupations.

7 (32) "Excess interest income" means that interest income earned and
8 received from investments in excess of the interest income on
9 investments required to meet actuarial funding requirements.

10 (33) "Domestic partner" has the definition in RCW 41.40.010.

11 **Sec. 56.** RCW 41.40.835 and 2003 c 155 s 8 are each amended to read
12 as follows:

13 (1) If a member dies prior to retirement, the surviving spouse,
14 domestic partner, or eligible child or children shall receive a
15 retirement allowance computed as provided in RCW 41.40.790 actuarially
16 reduced to reflect a joint and one hundred percent survivor option and,
17 except under subsection (2) of this section, if the member was not
18 eligible for normal retirement at the date of death a further reduction
19 as described in RCW 41.40.820.

20 If the surviving spouse or domestic partner who is receiving the
21 retirement allowance dies leaving a child or children under the age of
22 majority, then such child or children shall continue to receive an
23 allowance in an amount equal to that which was being received by the
24 surviving spouse or domestic partner, share and share alike, until such
25 child or children reach the age of majority.

26 If there is no surviving spouse or domestic partner eligible to
27 receive an allowance at the time of the member's death, such member's
28 child or children under the age of majority shall receive an allowance,
29 share and share alike. The allowance shall be calculated with the
30 assumption that the age of the spouse or domestic partner and member
31 were equal at the time of the member's death.

32 (2) A member who is killed in the course of employment, as
33 determined by the director of the department of labor and industries,
34 is not subject to an actuarial reduction under RCW 41.40.820. The
35 member's retirement allowance is computed under RCW 41.40.790.

1 **Sec. 57.** RCW 41.44.170 and 1973 1st ex.s. c 154 s 78 are each
2 amended to read as follows:

3 On retirement for permanent and total disability not incurred in
4 line of duty a member shall receive a retirement allowance which shall
5 consist of:

6 (1) An annuity which shall be the actuarial equivalent of his or
7 her accumulated normal contributions; and

8 (2) A pension provided by the contributions of the city which,
9 together with his or her annuity provided by his or her accumulated
10 normal contributions, shall make his or her retirement allowance equal
11 to thirty percent of his or her final compensation for the first ten
12 years of service, which allowance shall be increased by one and one-
13 half percent for each year of service in excess of ten years to a
14 maximum of fifty percent of his or her final compensation; otherwise he
15 or she shall receive a retirement allowance of forty dollars per month
16 or, except as to a part-time employee, such sum, monthly, not in excess
17 of sixty dollars per month, as is equal to six dollars per month for
18 each year of ((his)) creditable service, whichever is greater. If the
19 retirement allowance of a part-time employee, based upon the pension
20 ((hereinabove)) provided in this subsection, does not exceed forty
21 dollars per month, then such part-time employee shall receive a
22 retirement allowance of forty dollars per month and no more.

23 Nothing ((~~herein contained~~)) in this section shall be construed in
24 a manner to increase or to decrease any pension being paid or to be
25 paid to a member retired prior to August 6, 1965.

26 (3) If it appears to the satisfaction of the board that permanent
27 and total disability was incurred in line of duty, a member shall
28 receive in lieu of the retirement allowance provided under
29 ((~~subdivisions~~)) subsections (1) and (2) of this section full pay from,
30 and be furnished all hospital and medical care by, the city for a
31 period of six months from the date of his or her disability, and
32 commencing at the expiration of such six-month period, shall receive a
33 retirement allowance, regardless of his or her age or years of service,
34 equal to fifty percent of his or her final compensation exclusive of
35 any other benefit he or she may receive.

36 (4) No disability retirement allowance shall exceed seventy-five
37 percent of final compensation, anything herein to the contrary

1 notwithstanding, except as provided in (~~subdivision~~) subsection (7)
2 of this section.

3 (5) Upon the death of a member while in receipt of a disability
4 retirement allowance, (~~his~~) accumulated contributions, as they were
5 at the date of (~~his~~) retirement, less any annuity payments made to
6 (~~him~~) the member, shall be paid to (~~his~~) the member's estate, or to
7 such persons having an insurable interest in (~~his~~) the member's life
8 as he or she shall have nominated by written designation duly executed
9 and filed with the board. In the alternative, if there be a surviving
10 spouse or domestic partner as defined in RCW 41.40.010, or if no
11 surviving spouse or domestic partner, there are surviving a child or
12 children under the age of eighteen years, upon written notice to the
13 board by such spouse or domestic partner, or if there be no such spouse
14 or domestic partner, by the duly appointed, qualified and acting
15 guardian of such child or children, within sixty days of the date of
16 such member's death, there shall be paid to such spouse or domestic
17 partner during his or her lifetime, or, if there be no such spouse or
18 domestic partner, to such child or children, until they shall reach the
19 age of eighteen years, a monthly pension equal to one-half of the
20 monthly final compensation of such deceased member. If any such spouse
21 or domestic partner or child or children shall marry, then such person
22 so marrying shall thereafter receive no further pension herein
23 provided.

24 (6) If disability is due to intemperance, willful misconduct, or
25 violation of law, on the part of the member, the board, in its
26 discretion, may pay to said member, in one lump sum (~~his~~) the
27 member's accumulated contribution, in lieu of a retirement allowance,
28 and such payment shall constitute full satisfaction of all obligations
29 of the city to such member.

30 (7) In addition to the annuity and pension provided for in
31 (~~subdivisions~~) subsections (1) and (2) of this section, a member
32 shall receive an annuity which shall be the actuarial equivalent of his
33 or her accumulated additional contributions.

34 **Sec. 58.** RCW 41.44.190 and 1967 ex.s. c 28 s 5 are each amended to
35 read as follows:

36 (1) Should service of a member of the miscellaneous personnel be
37 discontinued except by death or retirement, (~~he~~) the member shall be

1 paid six months after the day of discontinuance such part of his or her
2 accumulated contributions as he or she shall demand. Six months after
3 the date of such discontinuance, unless on leave of absence regularly
4 granted, or unless he or she has exercised the option hereinafter
5 provided, his or her rights to all benefits as a member shall cease,
6 without notice, and (~~his~~) the member's accumulated contributions
7 shall be returned to him or her in any event or held for his or her
8 account if for any reason the return of the same is prevented. Should
9 service of a member of the uniformed personnel be discontinued except
10 by death or retirement, (~~he~~) the member shall be paid six months
11 after the day of discontinuance such part of his or her accumulated
12 contributions as he or she shall demand, and six months after the date
13 of such discontinuance, unless on leave of absence regularly granted,
14 his or her rights to all benefits as a member shall cease, without
15 notice, and (~~his~~) the member's accumulated contributions shall be
16 returned to him or her in any event, or held for his or her account if
17 for any reason the same is prevented: PROVIDED, That the board may in
18 its discretion, grant the privilege of withdrawal in the amounts above
19 specified at any time following such discontinuance. Any member whose
20 service is discontinued except by death or retirement, and who has five
21 or more years of creditable service when such discontinuance occurs,
22 may, at his or her option, leave his or her accumulated contributions
23 in the fund and thereby be entitled to receive a deferred retirement
24 allowance commencing at retirement age sixty for miscellaneous
25 personnel and at age fifty-five for uniformed personnel, such
26 retirement allowance to be computed in the same manner provided in
27 (~~subsection (1) of~~) RCW 41.44.150(1): PROVIDED, That this option may
28 be revoked at any time prior to commencement of annuity payments by
29 filing a written notice of such intention with the board together with
30 a written application for a refund of such accumulated contributions.
31 The board may establish rules (~~and regulations~~) to govern withdrawal
32 and redeposit of contributions.

33 (2) Should a former member, within five years after discontinuance
34 of service, return to service in the same city in which he or she was
35 employed he or she may restore to the fund in such manner as may be
36 agreed upon by such person and the board, his or her withdrawn normal
37 accumulated contributions as they were at the time of his or her
38 separation from service and upon completion of such redeposit all his

1 or her rights and privileges existing at the time of discontinuance of
2 service shall be restored and his or her obligations as a member shall
3 begin again. The rate of contribution of such returning member shall
4 be the same as it was at the time (~~he~~) the member separated from
5 service.

6 (3) Upon the death of any person who has not been retired, pursuant
7 to the provisions hereof, there shall be paid to his or her estate, or
8 to such persons having an insurable interest in his or her life as he
9 or she shall have nominated by written designation duly executed and
10 filed with the board, his or her accumulated contributions less any
11 payments therefrom already made to him or her. Such payment may be
12 made in one lump sum or may be paid in installments over a period of
13 not to exceed five years, as may be designated by the member or his or
14 her beneficiary, with such rate of interest as may be determined by the
15 board.

16 (4) In lieu of the death benefit otherwise payable under subsection
17 (3) of this section, there shall be paid a total allowance equal to
18 one-fourth average final compensation per month to the surviving spouse
19 or domestic partner as defined in RCW 41.40.010 of a member with at
20 least twenty years service as such, at the time of death and who has
21 not been retired and who, by reason of membership in the system, is
22 covered by the Old Age and Survivors Insurance provisions of the
23 Federal Social Security Act, but not at the time of death qualified to
24 receive the benefits thereof. Said allowance shall become payable upon
25 the death of said member or upon the date the surviving spouse or
26 domestic partner becomes ineligible for any benefit payment from the
27 Federal OASI, if later, and shall cease upon death or remarriage, or
28 upon the date the surviving spouse or domestic partner would become
29 entitled, upon application therefor; to any insurance benefit from the
30 Federal OASI system, whichever event shall first occur: PROVIDED, That
31 said benefit shall cease upon the beneficiary becoming employed by any
32 member city of said system: PROVIDED FURTHER, That this allowance
33 shall consist of:

34 (a) An amount which shall be the actuarial equivalent of the normal
35 contributions at the time specified for retirement;

36 (b) An amount provided by the contributions of the city, equal to
37 the annuity purchased by the accumulated normal contributions of the
38 member;

1 (c) Such additional amount, provided by the contributions of the
2 city, as will make the total allowance equal to one-fourth average
3 final compensation per month;

4 (d) An annuity purchased by the accumulated additional
5 contributions, if any, in addition to the minimum guaranteed.

6 (5) In lieu of the death benefit otherwise payable under subsection
7 (3) of this section, the surviving spouse or domestic partner of a
8 member who dies after having attained the minimum requirements for his
9 or her service retirement as required by RCW 41.44.140 may elect to
10 receive the allowance which would have been paid to such surviving
11 spouse or domestic partner had the member been retired on the date of
12 (~~his~~) death and had (~~he~~) the member elected to receive the lesser
13 retirement allowances provided for in option C of RCW 41.44.220.

14 (6) If a former member shall, within one year from date of
15 discontinuance of service, be employed by another city participating in
16 this retirement system he or she shall have the privilege of
17 redepositing and the matching contributions deposited by the city or
18 cities in which he or she was formerly employed shall again be held for
19 the benefit of such member. If such redepositing member possessed a
20 prior service certificate the city employing him or her at time of
21 retirement shall accept the liability evidenced by such certificate.

22 Reinstatement of a prior service certificate shall be effective
23 only upon a showing that normal contributions are on deposit in the
24 retirement fund, to the credit of the member, covering all current
25 service.

26 **Sec. 59.** RCW 41.44.210 and 1973 1st ex.s. c 154 s 79 are each
27 amended to read as follows:

28 Upon the death of any member who dies from injuries or disease
29 arising out of or incurred in the performance of his or her duty or
30 duties, of which the board of trustees shall be the judge, if death
31 occurs within one year from date of discontinuance of city service
32 caused by such injury, there shall be paid to his or her estate or to
33 such person or persons having an insurable interest in his or her life,
34 as he or she shall have nominated by written designation duly executed
35 and filed with the board, the sum of one thousand dollars, purchased by
36 the contributions of the cities participating in the retirement system;
37 and in addition thereto there shall be paid to the surviving spouse or

1 domestic partner as defined in RCW 41.40.010 during such spouse's or
2 domestic partner's lifetime, or if there be no surviving spouse or
3 domestic partner, then to his or her minor child or children until they
4 shall have reached the age of eighteen years, a monthly pension equal
5 to one-half the monthly final compensation of such deceased member. If
6 any such spouse or domestic partner, or child or children shall marry,
7 then such person so marrying shall thereafter receive no further
8 pension herein provided. Cost of the lump sum benefit above provided
9 shall be determined by actuarial calculation and prorated equitably to
10 each city. The benefits provided in this section shall be exclusive of
11 any other benefits due the member under this chapter.

12 **Sec. 60.** RCW 41.44.220 and 1965 ex.s. c 99 s 9 are each amended to
13 read as follows:

14 A member may elect to receive in lieu of the retirement allowance
15 provided for in RCW 41.44.150, its actuarial equivalent in the form of
16 a lesser retirement allowance, payable in accordance with the terms and
17 conditions of one of the options set forth below in this section.
18 Election of any option must be made by written application filed with
19 the board at least thirty days in advance of retirement, or may be made
20 by any member after he or she has attained the minimum requirements for
21 his or her service retirement as required by RCW 41.44.140, and shall
22 not be effective unless approved by the board prior to retirement of
23 the member.

24 Option A. The lesser retirement allowance shall be payable to the
25 member throughout his or her life: PROVIDED, That if he or she dies
26 before he or she receives in annuity payments referred to in
27 (~~paragraph (a) of subsection (1) of~~) RCW 41.44.150(1)(a) a total
28 amount equal to the amount of his or her accumulated contributions as
29 it was at date of (~~his~~) retirement, the balance of such accumulated
30 contributions shall be paid in one sum to his or her estate or to such
31 person having an insurable interest in his or her life as he or she
32 shall nominate by written designation duly executed and filed with the
33 board.

34 Option B. The lesser retirement allowance shall be payable to the
35 member throughout life, and after death of the member, one-half of the
36 lesser retirement allowance shall be continued throughout the life of

1 and paid to the (~~wife or husband~~) spouse or domestic partner as
2 defined in RCW 41.40.010 of this member.

3 Option C. The lesser retirement allowance shall be payable to the
4 member throughout life, and after death of the member it shall be
5 continued throughout the life of and paid to the (~~wife or husband~~)
6 spouse or domestic partner of the member.

7 A member may apply for some other benefit or benefits and the board
8 may grant such application provided such other benefit or benefits,
9 together with the reduced retirement allowance, shall be certified by
10 the actuary to be of equivalent value to his or her retirement
11 allowance.

12 The surviving spouse or domestic partner may elect to receive a
13 cash refund of the member's accumulated contributions in lieu of the
14 monthly benefit under either Option B or Option C.

15 **Sec. 61.** RCW 41.50.700 and 2003 c 294 s 12 are each amended to
16 read as follows:

17 (1) Except under subsection (3) of this section and RCW
18 41.26.460(5), 41.32.530(5), 41.32.785(5), 41.32.851(4), 41.35.220(4),
19 41.40.188(5), 41.40.660(5), 41.40.845(4), 43.43.271(4), and 41.34.080,
20 the department's obligation to provide direct payment of a property
21 division obligation to an obligee under RCW 41.50.670 shall cease upon
22 the death of the obligee or upon the death of the obligor, whichever
23 comes first. However, if an obligor dies and is eligible for a lump
24 sum death benefit, the department shall be obligated to provide direct
25 payment to the obligee of all or a portion of the withdrawal of
26 accumulated contributions pursuant to a court order that complies with
27 RCW 41.50.670.

28 (2) The direct payment of a property division obligation to an
29 obligee under RCW 41.50.670 shall be paid as a deduction from the
30 member's periodic retirement payment. An obligee may not direct the
31 department to withhold any funds from such payment.

32 (3) The department's obligation to provide direct payment to a
33 nonmember ex spouse from a preretirement divorce meeting the criteria
34 of RCW 41.26.162(2) or 43.43.270(2) may continue for the life of the
35 member's surviving spouse or domestic partner as defined in RCW
36 41.40.010 qualifying for benefits under RCW 41.26.160, 41.26.161, or
37 43.43.270(2). Upon the death of the member's surviving spouse or

1 domestic partner as defined in RCW 41.40.010 qualifying for benefits
2 under RCW 41.26.160, 41.26.161, or 43.43.270(2), the department's
3 obligation under this subsection shall cease. The department's
4 obligation to provide direct payment to a nonmember ex spouse
5 qualifying for a continued split benefit payment under RCW 41.26.162(3)
6 shall continue for the life of that nonmember ex spouse.

7 **Sec. 62.** RCW 41.54.034 and 1996 c 55 s 2 are each amended to read
8 as follows:

9 (1) If a dual member dies in service in any system, the member's
10 service in all systems may be combined for the sole purpose of
11 determining (~~the surviving spouse's~~) eligibility of the surviving
12 spouse or of a domestic partner as defined in RCW 41.40.010 to receive
13 a death benefit from each of the member's current and prior systems.

14 (2) Each system shall use its own criteria to:

15 (a) Determine (~~the surviving spouse's~~) eligibility of the
16 surviving spouse or of a domestic partner as defined in RCW 41.40.010
17 for a death benefit; and

18 (b) Calculate the death benefit based on service actually
19 established in that system.

20 (3) The surviving spouse or domestic partner shall receive the same
21 benefit from each system that would have been received if the member
22 were active in the system at the time of death. The spouse or domestic
23 partner shall be allowed to substitute the member's base salary from
24 any system as the compensation used in calculating the allowance.

25 (4) This section shall not apply to the Washington state patrol
26 retirement system established under chapter 43.43 RCW.

27 NEW SECTION. **Sec. 63.** Except as otherwise specifically provided,
28 this act applies with regard to retirements occurring on the effective
29 date of this section and thereafter.

30 NEW SECTION. **Sec. 64.** Section 11 of this act takes effect July 1,
31 2013.

32 NEW SECTION. **Sec. 65.** Section 10 of this act expires July 1,

1 2013.

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